Nationality Act, and for other purposes, before the Committee on the Judiciary of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARRETT:

H.R. 11442. A bill for the relief of Raffaele Berarducci; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 11443. A bill for the relief of Paul S. Symchych; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia (by request):

H.R. 11444. A bill for the relief of Yee Min Kiang, his wife, Shui Yiu Wong, and their minor children, Oi Hong Kiang and Oi Chuk Kiang; to the Committee on the Judiciary.

By Mr. FINO:

H.R. 11445. A bill for the relief of Gordon Frederick Jones; to the Committee on the Judiciary.

By Mr. KING of Utah:

H.R. 11446. A bill for the relief of Dr. Ralph R. Stevenson; to the Committee on the Judiciary.

By Mr. LINDSAY:

H.R. 11447. A bill for the relief of Ilyn (Eileen) Haywood; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 11448. A bill for the relief of Nicola Augelletta; to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 11449. A bill for the relief of Mrs. Katharina Doermer; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

276. By the SPEAKER: Petition of 90th Division Association, Kansas City, Mo., relative to the disbanding of certain military Reserve units; to the Committee on Armed Services.

277. Also, petition of Henry Stoner, Old Faithful Station, Wyo., relative to restricting the use of listening devices by private individuals; to the Committee on Interstate and Foreign Commerce.

SENATE

TUESDAY, OCTOBER 5, 1965

(Legislative day of Friday, October 1, 1965)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the President pro tempore.

Rev. Paul Morrison, D.D., associate minister, Foundry Methodist Church, Washington, D.C., offered the following prayer:

Almighty God, Father of all mankind, Creator of the universe, Ruler and Judge of all nations, we pause in reverence and awe to acknowledge Thy bountiful goodness and divine guidance, and to express our gratitude and thanks to Thee for all the benefits which Thou hast showered upon our beloved country. We ask Thy blessing and seek Thy providence upon this legislative body as it enacts far-reaching laws touching the affairs of millions of citizens.

Grant, O God, that each Member of the Senate may be worthy of the trust placed upon them. May they never lose the common touch with the multitudes of citizens they represent, nor fail to serve the common good. In these crucial days and critical hours for the whole world, strengthen the Members of the Senate to be loyal to the moral and ethical principles upon which this Nation was founded. Breathe Thy divine spirit into each one that they may do justly, exercise the love of mercy and to ever walk humbly with Thee, and this we pray, with the forgiveness of our sins, through Jesus Christ our Lord. Amen.

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 703(b) of the Labor-Management Reporting Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 1, 1965, and of Monday, October 4, 1965, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolution:

On September 29, 1965:

S. 402. An act for the relief of Ch Wha Ja (Penny Korleen Doughty);

S. 450. An act for the relief of William John Campbell McCaughey;

S. 618. An act for the relief of Nora Isabella Samuelli;

S. 906. An act to provide for the measurement of the gross and net tonnages for certain vessels having two or more decks, and for other purposes;

S. 1111. An act for the relief of Pola Bodenstein; and

S. 1390. An act for the relief of Rocky River Co., and Macy Land Corp.

On September 30, 1965:

S. 1588. An act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes.

On October 1, 1965:

S. 664. An act to provide for the disposition of judgment funds of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, and for other purposes;

S. 1190. An act to provide that certain limitations shall not apply to certain land patented to the State of Alaska for the use and benefit of the University of Alaska;

S. 1623. An act to amend the act of August 1, 1958, relating to a continuing study by the Secretary of the Interior of the effects of insecticides, herbicides, fungicides, and other pesticides upon fish and wildlife for the purpose of preventing losses to this resource;

S. 1764. An act to authorize the acquisition of certain lands within the boundaries of the Uinta National Forest in the State of Utah by the Secretary of Agriculture;

S. 1975. An act to amend the Northern Pacific Halibut Act in order to provide certain facilities for the International Pacific Halibut Commission; and

S. 1988. An act to provide for the conveyance of certain real property of the United States to the State of Maryland.

On October 2, 1965:

S. 4. An act to amend the Federal Water Pollution Act to establish a Federal Water Pollution Control Administration, to provide grants for research and development, to increase grants for construction of sewage treatment works, to require establishment of water quality criteria, and for other purposes; and

S.J. Res. 98. Joint resolution authorizing and requesting the President to extend through 1966 his proclamation of a period to "See the United States," and for other purposes.

REPORT OF CORREGIDOR-BATAAN MEMORIAL COMMISSION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 299)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the provisions of Public Law 193, 83d Congress, as amended, I hereby transmit to the Congress of the United States the 12th Annual Report of the Corregidor-Bataan Memorial Commission for the fiscal year ended June 30, 1965.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *October 5, 1965.*

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 597) to amend the Public Health Service Act to provide for a program of grants to assist in meeting the need for adequate health science library services and facilities, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the joint resolution (S.J. Res. 69) to authorize the Administrator of General Services to construct the third Library of Congress building in square 732 in the District of Columbia, to be named the "Library of Congress James Madison Memorial Building" and to contain a Madison Memorial Hall, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consider executive business to consider the nominations on the Executive Calendar, up to but not including the last item, which begins with the nomination of Burnett F. Anderson to be a Foreign Service officer, class I.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

The PRESIDENT pro tempore. If there be no reports of committees, the clerk will state the nominations on the Executive Calendar.

DEPARTMENT OF JUSTICE

The Chief Clerk read the nomination of B. Andrew Potter, of Oklahoma, to be U.S. attorney for the western district of Oklahoma.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

The Chief Clerk proceeded to read the nomination of David G. Bress, of the District of Columbia, to be U.S. attorney for the District of Columbia.

Mr. MANSFIELD. Over, Mr. President.

The nomination was passed over.

The Chief Clerk proceeded to read further nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remainder of the nominations in the Department of Justice be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ERVIN. Mr. President, do I correctly understand that the nomination of B. Andrew Potter, of Oklahoma, to be U.S. attorney for the western district of Oklahoma is one of those considered en bloc?

The PRESIDENT pro tempore. The Senator is correct.

Mr. ERVIN. I make the same query with respect to the nomination of Rex B. Hawks, of Oklahoma, to be U.S. marshal for the western district of Oklahoma.

The PRESIDENT pro tempore. The Senator is correct.

Mr. ERVIN. The reason I asked the question was that I was chairman of an ad hoc subcommittee which passed upon those nominations, and I think they should be confirmed on the evidence presented before the committee.

Mr. MANSFIELD. They should not be confirmed?

Mr. ERVIN. They should be confirmed.

The PRESIDENT pro tempore. The nominations in the Department of Justice have all been confirmed with the exception of that of Mr. Bress, which was passed over.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—DIPLOMATIC AND FOREIGN SERVICE

The Chief Clerk proceeded to read nominations in the Diplomatic and Foreign Service, beginning with Verne B. Lewis, Jr., to be a Foreign Service officer of class I, and ending with Robert C. Yore, to be a consul of the United States of America.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDENT pro tempore. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 794 and Calendar No. 797, in order, measures on the Executive Calendar to which there is no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the first bill.

INCENTIVE PAY FOR CERTAIN SUBMARINE DUTY PERSONNEL

The Senate proceeded to consider the bill (H.R. 5571) to amend title 37, United States Code, to authorize payment of incentive pay for submarine duty to personnel qualified in submarines attached to staffs of submarine operational commanders which had been reported from the Committee on Armed Services, with amendments, on page 1, line 6, after the word "command", to strike out "staff," and insert "staff whose duties require serving on a submarine during underway operations—

"(a) During one calendar month: 48 hours

"(b) During any two consecutive calendar months when the requirements of clause (a) above have not been met: 96 hours

"(c) During any three consecutive calendar months when the requirements of clause (b) above have not been met: 144 hours,"; and, on page 2, after line 5, to strike out:

SEC. 2. The amendment made by the first section of this Act shall take effect March 1, 1965.

The amendments were agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 809), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE PROPOSAL

The purpose of this legislation is to clarify the entitlement of personnel assigned duties on the staffs of submarine operational commanders to incentive pay for submarine duty. In addition, the bill as amended contains certain explicit criteria already set forth in this report which must be met before submarine members assigned to operational command staffs may qualify for incentive pay.

BACKGROUND INFORMATION

Since 1944 the Department of the Navy has paid certain members assigned to duties on staffs of submarine operational commanders the incentive pay authorized for duty aboard submarines. On October 30, 1964, however, the Comptroller General, by decision (B–154092) ruled that the language of the present statute does not permit the continued payment of this incentive pay to such staff personnel unless a majority of their assigned duties are actually performed aboard a submarine. The Comptroller General, however, has delayed implementing his decision through the end of this session of Congress, in order to permit the enactment of clarifying legislation so as to permit the continuation of incentive hazardous pay for the operational command staff personnel.

JUSTIFICATION FOR INCENTIVE PAY FOR SUBMARINE OPERATIONAL STAFF PERSONNEL

It should be noted that the number of persons affected by this bill is approximately 932, of which 377 are officers and 555 are enlisted members. All of these men are qualified submariners. This total may be compared to the 22,000 personnel presently serving on board submarines who receive incentive pay for submarine duty.

The operational command staff personnel affected by this bill are experienced submariners who assist the submarine operational commanders in the discharge of their responsibilities, including such activities as operations, training, and inspection, embracing all elements of safety, readiness, and operational activity. As provided in the committee amendment all will serve aboard a submarine at least 48 hours per month, which in normal operations would amount to five 10-hour cruises.

NATURE OF OPERATIONAL STAFF DUTIES

Since 1944 orders to permanent duty on board a submarine have been issued to all submarine operational unit commanders and most members of their respective staffs, and continuous incentive pay for submarine duty has therefore been paid to them. This has been considered fully justified because of the nature of their duties.

In order to carry out their primary responsibilities, submarine force, flotilla, squadron, and division commanders frequently perform duty on board submarines, participate in submerged operations, and make periodic

operational cruises in submarines as a matter of established practice. Members of each commander's staff frequently accompany him on board the various submarines of his command, and, in addition, make independent operational cruises on board submarines at sea in the execution of their various duties. These duties include, inter alia, qualification and underway examinations of officers, development and evaluation of new submarine tactics, inspection and certification of safety aspects, including those relating to nuclear weapons and the need to acquire additional operational knowledge pertaining to specific items required in the performance of his staff duties. The frequency and duration of these cruises will vary from infrequent short cruises to long patrol-type operations, depending on the needs of the operational commander and the nature of the staff member's duties. It is difficult to establish, arbitrarily, a specific performance requirement in advance.

Because of the physical limitations in submarines, submarine operational commanders and their staffs must perform some of their duties at submarine bases or on board submarine tenders. To discontinue incentive pay for submarine duty during these periods creates instability of income for the members, thereby creating severe morale problems.

SEC REGISTRATION FEES

The Senate proceeded to consider the bill (S. 1707) to amend section 6(b) of the Securities Act of 1933 which had been reported from the Committee on Banking and Currency, with amendments, on page 1, after the enacting clause to strike out "That section 6(b) of the Securities Act of 1933 is amended to read as follows:

"'(b) At the time of filing a registration statement the applicant shall pay to the Commission a fee of one-fiftieth of 1 per centum of the maximum aggregate price at which such securities are proposed to be offered, but in no case shall such fee be less than $100.'" And insert, "That section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking out 'one one-hundredth' and inserting in lieu thereof 'one-fiftieth', and by striking out '$25.' and inserting in lieu thereof '$100.'"; and, on page 2, line 4, after the word "be", to strike out "July 1, 1965" and insert "January 1, 1966"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking out "one one-hundredth" and inesrting in lieu thereof "one-fiftieth", and by striking out "$25." and inserting in lieu thereof "$100."

SEC. 2. The effective date of section 6(b) of the Securities Act of 1933, as amended by this Act, shall be January 1, 1966.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 812), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

S. 1707 would amend the Securities Act of 1933 by increasing the fee paid in connection with the filing of registration statements for securities offerings from one one-hundredth of 1 percent to one-fiftieth of 1 percent of the maximum aggregate price of the securities to be offered, and by increasing the minimum fee from $25 to $100.

GENERAL STATEMENT

S. 1707 was introduced at the request of the SEC, which submitted this proposal with the approval of the Bureau of the Budget. The Subcommittee on Securities conducted a hearing on this bill on September 22, 1965. Testimony was heard from the Honorable Manuel F. Cohen, Chairman of the Securities and Exchange Commission, who urged that this bill be enacted into law promptly. Another witness, appearing on behalf of the Investment Company Institute, stated that his organization was in agreement with the purposes of this bill. No opposition has been expressed to the bill.

This bill would double the registration fees collected under the Securities Act of 1933. In the case of a public offering of $2 million of securities, enactment of this bill would increase the registration fee from $200 to $400.

It is estimated that, had this bill been in effect during fiscal 1965, an additional $1.8 million in revenue would have been collected by the U.S. Treasury. The fees collected would have been approximately 33 percent of SEC's disbursements instead of the approximately 21 percent which was in fact the case.

The Bureau of the Budget has advised that the enactment of the rate increase proposed would be consistent with the administration's objectives.

The following table shows the SEC's appropriations and fees collected from 1935 to 1965:

Statement of appropriations and fees collected, fiscal years 1935 to 1965, inclusive

	Amount appropriated by Congress	Total fees collected	Percent of fees collected to total appropriation
1935	$1,545,337	$227,699	14.7
1936	3,029,494	900,400	29.7
1937	4,245,000	1,103,780	26.0
1938	3,895,000	716,456	18.4
1939	4,872,000	575,399	11.8
1940	5,470,000	492,640	9.0
1941	5,400,000	517,772	9.6
1942	5,440,000	312,922	5.8
1943	4,910,000	193,366	3.9
1944	4,602,500	407,645	8.8
1945	4,696,704	654,176	13.7
1946	4,694,200	1,093,432	23.2
1947	5,533,700	1,111,416	20.0
1948	5,738,700	946,295	16.5
1949	6,121,140	787,545	12.8
1950	5,878,250	790,043	13.4
1951	6,230,000	1,087,900	17.4
1952	5,813,480	1,364,447	23.5
1953	5,245,080	1,199,370	22.8
1954	5,000,000	1,215,749	34.3
1955	4,843,180	1,703,290	35.2
1956	5,278,000	2,074,211	39.3
1957	5,749,000	2,243,580	39.0
1958	6,935,000	2,334,370	33.6
1959	7,705,000	2,407,706	31.2
1960	8,100,000	2,631,498	32.5
1961	9,517,500	2,927,407	30.7
1962	11,412,500	3,422,403	29 9
1963	13,261,700	2,533,986	19.1
1964	13,937,500	3,106,213	22 3
1965	15,442,000	[1] 3,300,165	[1] 21.4
Total	200,514,965	44,382,403	22.13

[1] Had the proposed fee been in effect in fiscal 1965, the Commissioner would have collected approximately $1,790,000 additional, for a total of $5,090,165, representing 33 percent of the total appropriations for that year.

Source: Securities and Exchange Commission.

COMMITTEE AMENDMENTS

The committee revised the form of section 1 of the bill so as to conform with the version reported by the House Interstate and Foreign Commerce Committee. No change in substance would be made.

The committee amended section 2 of the bill so as to change the effective date of the bill from July 1, 1965, to January 1, 1966.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senators may transact routine morning business, and that statements in connection therewith be limited to 3 minutes.

Mr. PASTORE. Mr. President, would the majority leader prefer to bring up the conference report on foreign aid appropriations before the transaction of routine morning business? Consideration of the conference report should not take very long.

Mr. MANSFIELD. Except that it would be necessary to have a quorum call first.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

Mr. PASTORE. I have no objection.

Mr. DIRKSEN. Mr. President, yesterday I added a qualification with respect to the transaction of routine business; namely, that no motion be made or action taken relating to the pending motion, and that the transaction of routine business be limited to speeches not exceeding 3 minutes.

Mr. MANSFIELD. That is the understanding. When the transaction of routine morning business has been concluded, the motion to proceed to the consideration of H.R. 77 will be brought up.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore announced that on today, October 5, 1965, the Vice President signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 1384. An act for the relief of Theodore Zissu; and

H.R. 6726. An act for the relief of William S. Perrigo.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. TYDINGS:

S. 2599. A bill to amend the Urban Mass Transportation Act of 1964 to provide for additional technological research; to the Committee on Commerce.

(See the remarks of Mr. TYDINGS when he introduced the above bill, which appear under a separate heading.)

By Mr. BARTLETT (by request):

S. 2600. A bill to prevent vessels built or rebuilt outside the United States or documented under foreign registry from carrying cargoes restricted to vessels of the United States; to the Committee on Commerce.

(See the remarks of Mr. BARTLETT when he introduced the above bill, which appear under a separate heading.)

By Mr. MONTOYA:

S. 2601. A bill to provide for the coinage of proof sets of subsidiary silver coins and minor coins bearing the date 1965; to the Committee on Banking and Currency.

By Mr. MORSE:

S. 2602. A bill to remove a cloud on the title to certain real property in the State of Oregon owned by Mr. John Johnson; to the Committee on Interior and Insular Affairs.

AMENDMENT OF THE URBAN MASS TRANSPORTATION ACT OF 1964

Mr. TYDINGS. Mr. President, I introduce, for appropriate reference, a bill to amend the Urban Mass Transportation Act of 1964 to provide funds for additional technological research to develop new modes of urban transportation.

Americans are becoming increasingly aware that the private automobile and the freeway cannot alone solve the transportation needs of an urban area. Choked roads, foul air, frayed nerves, needless accidents, high public and private costs, and lost time are critical problems in all of our large metropolitan centers and an increasing number of our medium-sized and smaller cities. In order to alleviate these problems we need to develop new systems for moving people about urban areas.

Congress has in recent years begun to recognize the urban transportation problem and has taken some action. The Urban Mass Transit Act of 1964, the Northeast Corridor Act, and the District of Columbia Rapid Transit Act are all designed to improve the situation. While these laws represent a good start, much more will be needed in the years ahead if we are to transport people with anything approaching convenience, economy, and comfort through our major cities.

President Johnson, in a statement delivered upon signing the bill creating the new Department of Housing and Urban Affairs, reminded us that we will have to build a "second America" in the next 35 years. If we are to make that America a decent place in which to live, we must build transportation networks that avoid choking our urban areas to death.

Where the problems of urban growth are concerned, we must look beyond the next few months or few years. We must look ahead an entire generation. Bold innovations in the technology of public transportation are essential to a livable future.

The bill which I introduce today is designed to help meet the transportation needs not of the midsixties, but the midseventies and eighties.

This bill will authorize up to $10 million a year for fiscal years 1966 and 1967 for research programs specifically designed "to achieve a technological breakthrough" in the development of new methods of public intraurban transportation.

The distinguished Representative from Wisconsin, HENRY S. REUSS, has introduced identical legislation in the House. Twenty-one other Representatives have followed suit.

I ask unanimous consent, Mr. President, to have the text of the bill and the list of Representatives who have introduced similar measures in the House printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and list of Representatives will be printed in the RECORD, as requested.

The bill (S. 2599) to amend the Urban Mass Transportation Act of 1964 to provide for additional technological research, introduced by Mr. TYDINGS, was received, read twice by its title and referred to the Committee on Commerce.

(See exhibit 1.)

Mr. TYDINGS. Mr. President, I further ask unanimous consent that the bill lie on the table for 10 days to afford Senators an opportunity to cosponsor it, should they so desire.

The PRESIDENT pro tempore. Without objection, the bill will lie on the table for 10 days, as requested.

Mr. TYDINGS. Mr. President, the need for Federal financial support of technological research in new and innovating methods of mass transit, in my judgment, is very great. Our transit systems today are merely sophisticated refinements of the same public transit vehicles our fathers and grandfathers used. The subway, for example, is essentially an underground railroad. New York has had essentially the same subway system since 1904. Today's air-conditioned bus is a great improvement over earlier buses, but it is still subject to the limitations of any rubber-tired, self-propelled vehicle which shares the streets with private cars, trucks, and pedestrians. In this respect, it is not much of an advance over the horse and buggy.

Mr. President, a nation which can fly by Mars or land a man on the Moon, can surely devise new and better ways to move people about in our great cities. Last week, NASA announced that an astronaut will "walk" in space for a full orbit of the Earth. In the same 90 minutes that he circumnavigates the globe, many of us will be creeping, bumper to bumper, from our homes to our offices, or be packed like sardines in a dirty bus or an outmoded subway.

The American public deserves better. With the will, the initiative, and a research and development program that is comparable in imagination, if not in cost, to the effort we have made in space, the American public can achieve better urban transportation in our lifetime.

I am fully aware, Mr. President, that both the Northeast Corridor Act and the Urban Mass Transportation Act of 1964 provide funds for research and development. However, neither of these acts is designed or administered to encourage breakthrough technologies in intracity transit engineering. The Northeast Corridor Act is specifically concerned with contributing to the development of more efficient and economical intercity transportation systems. Dr. Robert Nelson, who as Director of Transportation Research in the Department of Commerce will play a major role in administering that act, told the Senate Commerce Committee:

> Our responsibilities run to intercity transcity transportation but not to transportation within urban areas.

The Mass Transportation Act of 1964 authorizes $10 million a year for research, development, and demonstration projects in all phases of urban mass transportation. These funds might be used to finance research into fresh technological approaches to our intracity transportation problems. But so great is the need for upgrading existing facilities that the overwhelming bulk of this money is in fact being spent for demonstration projects which improve present technology.

Recent grants illustrate the emphasis on immediacy. For example, nearly $3 million went to the Southeastern Pennsylvania Transportation Compact for a demonstration project to upgrade commuter service on the Reading Railroad. San Francisco and the Alameda-Contra Costa Transit District received $500,000 to develop and demonstrate methods for the coordination of the existing transportation facilities with the new rapid transit system in that area.

One demonstration project financed under the Mass Transportation Act is testing a new concept: the development of an air cushion vehicle in Oakland. But the accent is on shorter term results.

I do not criticize the Office of Transportation, now in the newly created Department of Housing and Urban Affairs, for concentrating on the improvement of present systems. The needs of the present and the immediate future merit most serious attention and effort.

But we must not lose sight of the next decades in our concentration on the present. The bill which I introduce today requires us to look ahead. It specifically earmarks funds for research designed to provide the technological breakthrough in transportation systems for our mushrooming urban areas.

My research, and that of Representative REUSS, indicates that many technological breakthroughs are possible. Startling results have already been produced.

Students in a junior-year mechanical engineering class at the Massachusetts Institute of Technology have proposed and have partially developed plans for a new type of urban transportation system in which commuters would zip along computer-directed, electrified guideways in small private vehicles called "Commucars."

The "Commucar" is a light, compact, electric auto built for two passengers, with jump seats for two more. It could be manually operated over existing roads. In addition, the "Commucar" could be hooked up to a central electric rail which would automatically take occupants to any desired exit station along its route. This operation would be controlled by computers. A driver would indicate his station by inserting a punched card into a box, then he could read his newspaper or doze until he arrived. He would then resume manual control of the vehicle and travel to his ultimate destination where the "Commucar" could be easily parked in a fraction of the space required by today's automobile. Under this plan, the guideways could be located in median strips of divided superhighways, or elevated above other roads and streets.

The only way to prevent the automobile from clogging our inner cities

to develop urban transit systems which surpass it in efficiency and convenience. People now drive to work or to the ball game in large numbers because driving is the best way to get there. The family car is right outside. It takes a person directly where he wishes to go; he does not have to ride three different trains or buses. If rush hour traffic is nerve racking, it is preferable to being jammed into a subway car. We can't force people to use public transportation. We can only encourage innovations, like the "Commucar," which will make it practical and attractive.

Another suggested innovation grows out of the high-speed railroad system which we are helping to develop through the Northeast Corridor Act. It envisages commuter subways built in a tube and operated on the principle of pneumatic propulsion. In an article published in Scientific American, L. K. Edwards, a pioneer in "corridor railway" technology, has estimated that pneumatic commuter trains could average 120 miles an hour, including the time spent in stations. The system could accommodate as many as 36,000 passengers an hour. Dr. Edwards has estimated that the cost of such a commutation system for New York City would be only about 25 percent more than the cost of modernizing the present system. It would bring about astounding efficiency. The trip from White Plains would take only 12 minutes; from Paterson, N.J., only 8.

A third innovation is the Teletrans system which has been designed by a corporation in Detroit. Combining features of the "Commucar" and the pneumatic subway, this system consists of individual vehicles which would travel through elevated stainless steel tubes. They would be propelled by electromagnetic power and would not travel at particularly high speeds. However, computers would direct each vehicle to the passenger's desired destination without stops or transfers. Thus, a 20-mile trip would take only 25 minutes. It would be as if each person had his own "el" system. One line could handle as many as 17,000 vehicles per hour.

I do not know whether any of the foregoing schemes are practical or feasible from an economic or an engineering standpoint, but I am satisfied that we ought to find out—and find out soon. Ten or fifteen years leadtime is not too much to design and redesign the transportation systems of our cities.

If these proposals are not feasible, there are many other imaginative transportation plans on drawing boards and in scale models. To be explored and readied for the next generation of transportation systems, we must begin now to finance the research and development that can bring these plans and ideas to fruition.

This is a matter of obvious Federal concern. Yet, the latest statistics show that while in fiscal 1963 the Federal Government spent $275 million in aviation research, $24 million in highway research, $15 million in water transportation research, and $7 million in intercity rail transportation research—a total of $321 million—it spent no significant amount on research in intracity transportation.

Here, Mr. President, Federal assistance is needed. No city and very few private concerns can finance a major research effort into new technology for urban transportation. The bill I introduce today will help give this neglected area of research a needed push.

I am confident that, with this $20 million, plus the private funds that will be stimulated by it, we can do a great deal to develop imaginative but practical solutions to the urban transit mess.

EXHIBIT 1

S. 2599

A bill to amend the Urban Mass Transportation Act of 1964 to provide for additional technological research

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Urban Mass Transportation Act of 1964 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) In addition to projects undertaken under subsection (a) the Administrator shall undertake a program of research designed to achieve a technological breakthrough in the development of new kinds of public intraurban transportation systems which can transport persons in metropolitan areas from place to place within such areas quickly, safely, and economically, without polluting the air, and in such a way as to meet the real needs of the people and at the same time contribute to good city planning. There is authorized to be appropriated for the purposes of this subsection $10,000,000 for fiscal year 1966, and $10,000,000 for fiscal year 1967. Any amount so appropriated shall remain available until expended; and any amount authorized but not appropriated for any fiscal year may be appropriated for any succeeding fiscal year."

SEC. 2. Section 6 of such Act is further amended by—

(1) striking out "such projects" in the second sentence of subsection (a) and inserting in lieu thereof "programs and projects conducted under this section," and

(2) striking out "this section" each place it appears in subsection (b) and inserting in lieu thereof "subsection (a)."

SPONSORS OF URBAN TRANSPORT RESEARCH LEGISLATION

List of Members of the House of Representatives who have introduced identical legislation to H.R. 9200, sponsored by Representative HENRY S. REUSS:

THOMAS L. ASHLEY, of Ohio, H.R. 9201.
EARLE CABELL, of Texas, H.R. 9202.
LEONARD FARBSTEIN, of New York, H.R. 9763.
DONALD M. FRASER, of Minnesota, H.R. 9995.
JOHN J. GILLIGAN, of Ohio, H.R. 9826.
Mrs. MARTHA W. GRIFFITHS, of Michigan, H.R. 9996.
SEYMOUR HALPERN, of New York, H.R. 9997.
CHARLES S. JOELSON, of New Jersey, H.R. 9998.
CLARENCE D. LONG, of Maryland, H.R. 9999.
RICHARD D. MCCARTHY, of New York, H.R. 10000.
JOSEPH G. MINISH, of New Jersey, H.R. 10001.
WILLIAM S. MOORHEAD, of Pennsylvania, H.R. 10002.
ABRAHAM J. MULTER, of New York, H.R. 9203.
DANIEL J. RONAN, of Illinois, H.R. 10003.
James Roosevelt, of California, H.R. 10004.
BENJAMIN S. ROSENTHAL, of New York, H.R. 9204.
LYNN E. STALBAUM, of Wisconsin, H.R. 10279.
Mrs. LEONOR K. SULLIVAN, of Missouri, H.R. 9205.
CHARLES A. VANIK, of Ohio, H.R. 9206.
CHARLES L. WELTNER, of Georgia, H.R. 9207.
SIDNEY R. YATES, of Illinois, H.R. 9208.

Mr. MAGNUSON. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I am glad to yield to the Senator from Washington.

Mr. MAGNUSON. I presume that the Senator's bill would come to the Committee on Commerce.

Mr. TYDINGS. I presume that is the committee to which the original Urban Mass Transportation Act was referred.

Mr. MAGNUSON. I merely wish to say that in that committee, under the leadership of Senators like the Senator from Rhode Island [Mr. PASTORE] and others, they have long been conscious of the problem which the Senator and his colleague [Mr. BREWSTER] have always talked about.

With the signing of the development bill the other day by the President, I believe that the Senator's bill would be a good supplement to what we are trying to do. I am hopeful that the committee would not only give it sympathetic consideration, but also expedite the matter.

Mr. TYDINGS. This is a bill to amend——

Mr. MAGNUSON. The present act.

Mr. TYDINGS. The present act of 1964, that is correct.

Mr. MAGNUSON. Let me assure the Senator from Maryland that we are conscious of this matter and concerned about it. To me, there seems to be no reason why we cannot do that and make some great steps forward.

Mr. TYDINGS. I thank the distinguished Senator from Washington. I do not believe that there is any more——

The PRESIDING OFFICER (Mr. BASS in the chair). The time of the Senator from Maryland has expired.

Mr. TYDINGS. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TYDINGS. I do not believe that there is anything more essential to the development of our great cities and metropolitan areas than a balanced transportation system. Under the leadership of the distinguished chairman of the Committee on Commerce, the able Senator from Washington [Mr. MAGNUSON], Congress has taken steps in this area.

My bill would merely supplement the action already taken. It specifically provides money to aid in the search for a technical breakthrough which could radically change the method of transportation in our great cities.

I do not know what scientific advances we can expect in the future, but experience tells us that modes of public transportation are certain to be radically altered. The development of buses, for example, largely eliminated the streetcars. Buses are now air conditioned and have many other conveniences and safety features. This represents a stride forward, but there are all sorts of new horizons which should be explored, with a little attention and effort, we can

readily change the transportation structures of our great cities.

Having worked in the city of Baltimore as U.S. attorney for many years, I know that in order for great cities and metropolitan areas to survive as centers of culture, commerce, industry, and economy, they must have a successful and balanced transportation structure, and this must include an effective rapid transit system.

Mr. MAGNUSON. I was a bit hopeful, and I am glad that the Senator from Rhode Island [Mr. PASTORE] is now in the Chamber, because he knows and has probably done more, but he and other Senators have gone all up and down this big area of concentrated population on this subject, more than anyone else. I am only, I say, sympathetic to the idea, because I can conceive that one of these days I will be in the same position in my area, and we wish to look forward. But I am hopeful that—and I throw this out as a suggestion, supposing it does not receive prompt action at this session, which I believe as a practical matter would be a little bit difficult——

Mr. TYDINGS. Yes; I understand.

Mr. MAGNUSON. But the Senator from Rhode Island, the ranking member of the committee, would, I am sure, if he can find the time, be glad to explore the matter up and down on the question of urban transportation, following up on the bill recently signed, taking into consideration the points the Senator from Maryland has brought up so well.

Mr. TYDINGS. The comments of the Senator are very helpful. I hope that the Senator from Rhode Island can find the time to look into this proposed legislation, and the background of some of the new systems. An article published in the Scientific American, last month I believe, indicates that there is the possibility of a radical breakthrough in the field of rapid transportation. The entire purpose of my bill is to supplement the existing Mass Transportation Act, and to look to the future.

Mr. PASTORE. I congratulate the Senator from Maryland and compliment him for his timely remarks with reference to the transportation situation which confronts this country.

Let me assure the Senator from Maryland that he has my assurance his bill will be given speedy and serious consideration.

Mr. TYDINGS. I thank the Senator from Rhode Island.

PROHIBITION OF CERTAIN VESSELS FROM CARRYING CARGOES RESTRICTED TO VESSELS OF THE UNITED STATES

Mr. BARTLETT. Mr. President, by request, I introduce, for appropriate reference, a bill to prevent vessels built or rebuilt outside the United States or documented under foreign registry from carrying cargoes restricted to vessels of the United States. Congress enacted 5 years ago legislation to provide protection to vessels of the U.S. registry against foreign-flag vessels and vessels constructed or reconstructed abroad which attempt to be brought under the U.S. flag for purposes of carrying cargo-preference cargoes. In recent weeks substantiated reports have indicated the possible violation of the intent and purpose of this congressional act by Military Sea Transportation Service—MSTS. Because of the serious nature of this matter, I anticipate that this entire question will be fully reviewed in the near future.

I ask unanimous consent that a memorandum describing the purposes of this bill be inserted in the RECORD at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the memorandum will be printed in the RECORD.

The bill (S. 2600) to prevent vessels built or rebuilt outside the United States or documented under foreign registry from carrying cargoes restricted to vessels of the United States, introduced by Mr. BARTLETT, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The memorandum presented by Mr. BARTLETT is as follows:

MEMORANDUM IN SUPPORT OF PROPOSED LEGISLATION

The purpose of this bill is to eliminate an ambiguity and apparent inconsistency which exists in our cargo preference statutes. In 1961, an amendment (Public Law 87–266), was enacted to section 901(b) of the Merchant Marine Act, 1936, (the so-called permanent Cargo Preference Act), which provided that U.S.-flag vessels would not be permitted to participate in the carriage of Government-financed cargoes reserved to privately owned U.S.-flag commercial vessels if they had been either (a) built outside the United States, or (b) rebuilt outside the United States, or (c) documented under any foreign registry until such vessels were documented under the laws of the United States for a period of 3 years. The purpose of that legislation was to provide protection to vessels of U.S. registry against foreign-flag vessels and vessels built or rebuilt abroad which sought documentation or redocumentation under the American flag for the purpose of carrying cargo preference cargoes reserved to American-flag ships.

In amending section 901(b) of the Merchant Marine Act in 1961, pursuant to the provisions of Public Law 87–266, Congress noted that it has long been the national policy of the United States to encourage the development and maintenance of an American owned, American built merchant marine manned by American citizen personnel. One of the principal means of achieving this purpose has been legislation reserving cargoes for carriage in American-flag vessels. The two primary pieces of cargo preference legislation are section 901(b) of the Merchant Marine Act, made permanent by enactment of Public Law 664, sometimes known as the 50–50 statute or the Cargo Preference Act, and the statute covering the movement of military cargoes, which was enacted in 1904, and provides that only U.S.-flag vessels may be used in the transportation by sea of supplies bought for the Army, Navy, Air Force, or Marine Corps.

Unfortunately, it appears that the legislation enacted in 1961 by Public Law 87–266 was not wholly effective in achieving the purpose intended because of the fact that Military Sea Transportation Service, the agency charged with the movement of military cargoes, has interpreted that legislative enactment as not applying to cargoes shipped by it. Recently, several vessels have apparently been chartered by MSTS shortly after (or perhaps before) they have been transferred to U.S.-flag registry from foreign-flag registries. At the time of the enactment of Public Law 87–266, it did not appear that any significant number of vessels were being built or rebuilt abroad or that foreign-flag vessels were being transferred to U.S.-flag registry for the purpose of carrying MSTS cargoes. The failure to include defense and military cargoes within the scope of Public Law 87–266 was perhaps an oversight—it was certainly the intent of Congress that Public Law 87–266 would constitute our national maritime policy on this subject, and that renegade foreign-flag vessels or vessels built or rebuilt abroad would be precluded from carrying all types of cargo preference cargoes, including defense cargoes.

As noted in the legislative history of Public Law 87–266 and the congressional committee reports on the bills which were before them, when vessels are transferred from foreign-flag registry or when U.S.-flag vessels are built or rebuilt abroad, it defeats the basic purpose of our maritime program, which is to promote and maintain "an adequate and well-balanced American merchant marine * * * composed of the best equipped, safest and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel." The congressional committee reports noted that as a result of the redocumentation of foreign-flag vessels the American shipping market, almost completely dependent upon cargo preference cargoes, had become unstable. Furthermore, the building or rebuilding of vessels abroad for the purpose of carrying cargo preference cargoes defeats the policy of this country to encourage a domestic shipbuilding industry.

Since it now appears that a significant number of foreign-flag vessels have been transferred to U.S. registry for the sole purpose of carrying MSTS cargoes, the purpose of Public Law 87–266 is being partly flouted. Such vessels are not only destroying employment for U.S.-flag vessels and domestic shipyards, but they can also operate under the umbrella of MSTS cargoes for 3 years and then attain the right to carry all cargo preference cargoes. In addition to being contrary to the congressional intent as expressed in Public Law 87–266, such chartering of ex-foreign-flag vessels by MSTS could destroy the effectiveness of all segments of the American merchant marine and vitiate the program for upgrading the unsubsidized segment of our American merchant marine under the Vessel Exchange Act. This bill would prevent these unintended and undesirable results from occurring.

AMERICAN MOTORS—IT PAYS TO BE STRAIGHTFORWARD

Mr. PROXMIRE. Mr. President, the American Motors company announced its 1966 price policy this morning with the following succinct and commendable sentence:

American Motors Corp. today announced it has reduced prices on all 1966 models below the prices of similarly equipped 1965 models, in addition to passing on the Federal excise tax reduction.

This is good news, because it means that American Motors alone of the four major auto manufacturers has reduced its 1966 automobile prices.

An excellent analysis of the facts behind 1966 motor price announcements of the big three auto companies in this morning's Wall Street Journal concluded as follows:

For the fact is that Chrysler Corp., General Motors Corp., and Ford Motor Co. all have increased base prices by amounts that aren't greatly different.

The article points out that Chrysler was straightforward and direct about it. General Motors followed with a slick, smooth job which the Wall Street Journal called a slight-of-hand that made the price announcement appear to be a reduction. It was not. It was an increase. GM simply ignored the impact of the 1965 excise tax cuts on the comparison between the 1965 and the 1966 model.

In addition to this hocus pocus, GM not only included formerly optional safety equipment as standard and charged the higher price—and this action I would regard as completely legitimate—but also brought some nonsafety equipment that had been optional into the standard or must-buy category, such as lighting of ash trays.

Ford followed the same practice as GM.

The result: Chrysler's honesty earned it brickbats. GM's and Ford's smooth public relations sleight-of-hand earned them at least acquiescence.

Then this morning came the American Motors announcement, scheduled for release at 1 p.m. this afternoon.

American Motors is both straightforward and does—I repeat does—reduce prices. Its release is simple and clear.

In an accompanying table it compares prices of 1965 models with prices of 1966 models, in both cases with a 7 percent Federal excise tax and shows the net decrease, in the case of every model.

The net average, overall decrease is not merely a token. It is a solid $70.

Mr. President, I shall be straightforward, too. American Motor's principal plants are in Kenosha and Milwaukee, Wis. The company is Wisconsin's largest single employer. It is a major factor in the prosperity of my State. Frankly, this is one reason I am calling the matter to the attention of the Senate and the country. But it is also true, Mr. President, that the pricing policies of this relatively small company—as the auto giants go—is pointing the way to prosperity with price stability, to profitable good business sense as well as economic statesmanship.

I ask unanimous consent that the release from American Motors and the very interesting article by Norman C. Miller, from today's Wall Street Journal, pointing out how the other auto companies actually increased prices be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DETROIT, October 5.—American Motors Corp. today announced it has reduced prices on all 1966 models below the prices of similarly equipped 1965 models, in addition to passing on the Federal excise tax reduction.

Without the excise tax reduction, the average 1966 model price will be about $70 below the average 1965 price for comparably equipped cars, American Motors president Roy Abernethy said.

Abernethy said the company's 1966 prices (compared with prices of 1965 models with similar equipment) will be:

1. Reduced by $66 to $132 on its Ambassador series, and by $128 on the Marlin Fastback.

2. Reduced as much as $103 on Rambler Classic models, with the 550 series having a larger, more powerful Torque Command 232 engine as standard.

3. Reduced as much as $51 on the Rambler American line which now has as standard a new seven main bearing Torque Command 199 six-cylinder engine, as well as increased size and luxury.

Abernethy said the company will continue to pass to the consumer the full amount of the 3-percent reduction in Federal excise taxes, and will include new safety items as standard equipment.

"American Motors' aggressive price action is a major part of the company's total program to reposition its car lines in keeping with consumer demand for greater variety of choice," Abernethy said.

"Our new pricing will help dramatize our broad range of products, from the lowest priced 6-cylinder cars—with established economy leadership—to cars high in sportiness, luxury and performance.

"The program includes a very heavy accent on quality, new product identification and a major shift in merchandising and advertising emphasis. A reduction in the number of models from 30 to 26 results in a more precise model alignment in each series to aid the consumer in making his selection.

"We sold approximately 416,000 cars worldwide in the model year just ended—far more than any other independent U.S. maunufacturer in history—and we expect new public awareness of our product range to have a strong upward effect on our total volume.

American Motors' announced prices are the advertised delivered prices as they appear on the car stickers in dealer showrooms. The advertised delivered price includes the Federal excise tax of 7 percent and dealer preparation charges.

"Our customers have been receiving the full 3 percent excise tax reduction which became effective June 22, 1965, retroactive to May 15, and this has no bearing on our 1966 price reductions," Abernethy said.

"To avoid any possible confusion on this point, we are listing our 1966 prices in a manner that provides direct comparison with 1965 prices which reflect the excise tax reduction from 10 percent to 7 percent," he said.

All American Motors cars include as standard equipment several safety items which were extra cost options on most 1965 models. These include padded instrument panels, back-up lights, padded visors, outside rear view mirrors, windshield washers and rear seat belts. In addition, all 1966 AM cars will have as standard a new, stronger laminated windshield glass which provides higher resistance to penetration and shattering.

"Further, we will continue as standard such additional safety features as our dual safety brake system and variable speed windshield wipers," Abernethy said.

With adjustments for the six items of safety equipment added as standard for 1966 and other added standard equipment, prices on the 1966 Rambler American line range from $7.60 to $51.55 lower than comparably equipped 1965 models.

Rambler American prices range from $2,017 for a two-door sedan in the 220 series to $2,486 for the 440 series convertible—which has a powered top as standard for 1966. The American 220 series offers the lowest price six-cylinder two-door sedan ($2,017), four-door sedan ($2,086), and station wagon ($2,369 in the U.S. industry). The new top-line American Rogue hardtop is priced at $2,370.

On the Rambler Classic line, the 1966 price reductions range from $5.70 to $103.80 below those of 1965 models with similar equipment. Classic prices range from $2,189 for a two-door sedan in the 550 series to $2,629 for a 770 series station wagon. The new top-line Classic hardtop, the Rebel, is priced at $2,523.

The 1966 Ambassadors are priced $66.75 to $132.85 below equivalent 1965 models.

Ambassador prices begin at $2,404 for a two-door sedan in the 830 series and move up to $2,968 for a 990 series convertible, which has a 287-cubic-inch V–8 engine as standard. The new Ambassador hardtop, the DPL, is priced at $2,756.

At $2,601, the Marlin is $128.75 below a comparable equipped 1965 model. However, additional reductions in the Marlin price have been made due to changes in basic equipment which make some items optional at extra cost for 1966 which were standard on 1965 Marlins. (The 1965 Marlin had an advertised delivered price of $2,841.)

Abernethy said: "Our 1966 prices have been reduced even though employment costs have increased about 40 percent in the past 6-year period which also saw an increase of about 9 percent in the Consumer Price Index. Moreover, we have invested many millions of dollars in improving the design and reliability of our products—and in the development of advanced unit construction, ceramic-coated mufflers, and tailpipes, molded ceiling headlining, coil-spring seat construction, and many other features of special benefit to the buyer.

"As a result of these many innovations and engineering and design improvements, the 1966 American Motors buyer receives a car having a substantially higher intrinsic value than ever before."

The company also announced that its air-guard exhaust emission control system installed on 1966 cars sold in California will have an advertised delivered price of $45.

American Motors' 1966 models go on sale October 7.

The prices listed below are advertised delivered prices and include Federal excise taxes and preparation charges. Prices of 1965 models are as of June 22, 1965, when the excise tax was reduced (retroactive to May 15) from 10 percent to 7 percent, and have been adjusted to include comparable equipment made standard for 1966.

	1965 [1]	1966 [1]	Net decrease
Ambassador 880:			
2-door sedan	$2,532.85	$2,404	$128.85
4-door sedan	2,584.85	2,455	129.85
4-door station wagon	2,891.85	2,759	132.85
Ambassador 990:			
4-door sedan	2,665.10	2,574	91.10
2-door convertible V-8	3,038.30	2,968	70.30
4-door station wagon	2,973.10	2,880	93.10
2-door hardtop	2,669.25	2,600	69.25
Ambassador DPL: 2-door hardtop	2,822.75	2,756	66.75
Classic 550:			
2-door sedan	2,194.70	2,189	5.70
4-door sedan	2,243.70	2,238	5.70
4-door station wagon	2,575.30	2,542	33.30
Classic 770:			
4-door sedan	2,439.20	2,337	102.20
2-door convertible	2,692.25	2,616	76.25
4-door station wagon	2,732.80	2,629	103.80
2-door hardtop	2,439.20	2,363	76.20
Classic Rebel: 2-door hardtop	2,604.05	2,523	81.05
American 220:			
2-door sedan	2,055.10	2,017	38.10
4-door sedan	2,110.10	2,086	24.10
4-door station wagon	2,381.10	2,369	12.10
American 440:			
2-door sedan	[2]	2,134	
4-door sedan	2,254.55	2,203	51.55
2-door convertible	2,493.60	2,486	7.60
4-door station wagon	[2]	2,477	
2-door hardtop	2,238.55	2,227	11.55
American Rogue: 2-door hardtop	2,396.75	2,370	26.75
Marlin: 2-door hardtop	2,729.75	2,601	128.75

[1] At 7 percent Federal excise tax.
[2] Not available.

[From the Wall Street Journal, Oct. 5, 1965]

CAR-PRICE CHARADE: IN MARKING UP TAGS, IT DOSEN'T PAY TO BE STRAIGHTFORWARD

(By Norman C. Miller)

DETROIT.—The 1966 car prices announced in recent days by the Big Three auto companies, whatever else they demonstrate, prove conclusively that appearances—not sub-

stance—are what count in setting auto prices, particularly when the companies are playing to a Washington gallery.

For the fact is that Chrysler Corp., General Motors Corp., and Ford Motor Co. all have increased base prices by amounts that aren't greatly different. Yet price watchers in Washington booed the first price disclosure by Chrysler, then roundly cheered GM's prices, and reacted more or less indifferently to Ford's. How can this range of reactions to essentially the same actions be explained?

The answer is that the companies exhibited varying degrees of sleight of hand in attempts to mask their price increases, and Washington officials apparently were eager to applaud the most skillful public relations performance rather than take note of what actually was happening.

Chrysler led off the pricing round and made the error of being reasonably straightforward in stating that it was increasing prices of most models. In the veiled terms deemed suitable for such occasions, Chrysler stated that "prices of the new 1966 models have been adjusted to accommodate * * * improvements," such as "upgraded" trim, new "safety interior door handles," heavier and larger bumpers, and "longer life brake linings."

Turning to the list of comparative 1966–65 prices for Chrysler's 128 models, it became apparent that in most cases the adjustments meant the company was charging $10 to $35 more for most "comparably equipped" cars. Question: What were "comparably equipped" cars?

Investigation disclosed that they were cars equipped in both model years with a package of safety equipment recommended by the Government. This equipment, which had been optional in 1965, was made standard for 1966 models by all the auto companies as a result of strong Government pressure. The addition of the safety package as standard equipment, regardless of why it was added, was pertinent to the new-car prices because base prices had in fact been increased to cover the newly standard equipment. In Chrysler's case, the added safety equipment raised new-model prices an average of $49 above the list price of a "stripped" 1965 model on a dealer's lot. So Chrysler's actual price increases over the 1965 bases for most models ranged from $59 to $84.

CONDEMNED IN CONGRESS

Washington couldn't very well object to Chrysler's increasing prices for safety equipment which prominent Government officials had urged. But a flurry of protests was heard over the extra $10 to $35 Chrysler had added to base prices to cover other improvements, and the company was denounced in the House and Senate.

GM, next up in the pricing round, got the message from Washington. Its press release stated flatly that "suggested retail prices on all 1966 model GM passenger cars will be lower than those of similarly equipped 1965 models." Moreover, GM stated, "reductions * * * range from $52 to $136 as compared with the introductory prices for similarly equipped 1965 models in September 1964."

The GM comparison to prices in September 1964 was a clever ploy because at that time prices included a 10 percent Federal excise tax. But the tax had been reduced to 7 percent in June and all the auto companies already had lowered their 1965 model prices by an average of $72 to pass along the savings to car buyers. Chrysler, reasoning that the tax cut was old stuff, had compared its 1966–65 prices on the basis of a 7 percent tax in both years.

True, GM in its price announcement stated that the tax reduction had been in effect for 3 months and also gave comparative price figures based on a 7-percent tax rate for both years. Nonetheless, the seed of confusion had been sown, intentionally or not. One Detroit newspaper, for example, reported that GM had cut prices by as much as $136 while Chrysler had raised tags by as much as $66—overlooking the fact that on the basis of a 10-percent tax rate for 1965 Chrysler could have claimed "price reductions" on many models almost as sizable as GM's.

Putting aside the extraneous factor of a 3-month-old tax cut, there remained GM's claim of price cuts on similarly equipped cars. GM said it was adding a safety package similar to Chrysler's as standard equipment, but that on most models it was charging a few dollars less than the former price of the safety items as options.

So it was true, as the company stated, that customers would pay a little less for similarly equipped cars in 1965. It was equally true, however, that basic models in 1965 weren't similarly equipped with the safety package and that 20 to 50 percent of car buyers had chosen not to buy the formerly optional safety items for 1965 cars. Now, all buyers were confronted with a base price averaging $50 more on GM cars to cover the cost of safety equipment.

Furthermore, the GM price announcement implied that only formerly optional safety items had been added as standard equipment to the 1966 cars; these were the only former options mentioned by the company in the context of prices of similarly equipped cars.

A PRICE PUZZLER

However, when actual price lists were received from GM divisions after the corporation's general announcement (which listed only one new price as an example), it was found that price increases over 1965 base tags were higher on some models than the former optional prices of newly standard safety equipment. The divisions' price statements didn't explain this puzzler.

On inquiry, however, the Chevrolet, Buick, Oldsmobile, and Pontiac divisions said certain nonsafety options also had been made standard equipment on some models, and that base prices had been increased to cover these items as well as the safety package. Pontiac, for example, made standard a group of interior lights for ashtrays and other locations and a "heavy-duty" air cleaner. These items raised base prices of some Catalinas and Bonnevilles by as much as $38 above the price attributable to the safety package. A GM spokesman said such nonsafety items were placed on certain models in response to "strong public demand."

Question: If public demand for the new equipment was so strong, why didn't GM announce clearly that the nonsafety options were being made standard?

Moreover, the addition of nonsafety options to several GM models brought the company's 1966 prices very close to those posted previously by Chrysler. True, Chrysler's price increases were spread throughout its model lineup, while GM's were more limited. And GM could claim that it was merely adding on specific popular items, rather than citing general improvements in its cars as did Chrysler.

But who is to say what is worth more? Is it a cluster of lights on a Pontiac, which the customer formerly had an option to take or leave, or is it a new door handle on a Plymouth, which wasn't available previously? (The new Chrysler door handle, while not seeming very important, had been cited by independent auto safety specialists as a possibly important safety advance. Chances of death are increased when car doors spring open in accidents, but Chrysler's new interior door handle is designed so that it's much harder for a door to be opened when a passenger is hurled against it in an accident, independent safety specialists say.)

Washington officials weren't prepared to grapple with such questions, in assessing GM's pricing action compared with Chrysler's. GM had skillfully presented its 1966 prices so that reductions, no matter how nebulous, could be claimed, and for this feat the company was given a hero's accolade by Federal officials.

FORD FOLLOWS GM

Ford, benefiting by GM's example, followed much the same tack in announcing its prices. The company stated clearly that it was increasing prices by more than an amount for safety items on 13 of 62 models, but on 49 other models increases for safety equipment were masked by claiming reductions by the "comparably equipped" price-comparison gimmick.

Moreover, Ford also added a wide variety of nonsafety items to several of its cars, without clearly stating it was doing so, and this further increased prices on affected models over 1965 base prices. By this time, though Washington price watchers had apparently lost interest in auto prices and had very little to say.

What quite possibly remained, however, was the incorrect impression that Chrysler had raised prices a great deal more than had GM and Ford. Chrysler, asserting that there were only minor differences between its price changes and those of its competitors, declared that it would stand by its 1966 prices. Still, the company was plainly worried about the bad publicity it had reaped. Last week it placed full-page ads in 190 newspapers to argue that its prices are competitive; trade sources say these ads cost Chrysler about $225,000.

Whether the price flap actually will hurt Chrysler's car sales remains to be seen. One thing that may suffer, however, is the clarity of future automobile price announcements, which have never been models of lucidity. For as long as economic authorities in Washington are willing to applaud gimmicks employed by auto companies to mask price increases, the companies no doubt will use them—and the public may be misled.

VISIT OF POPE PAUL VI TO THE UNITED STATES

Mr. PASTORE. Mr. President, yesterday, the hopes and aspirations of men of good will everywhere were lifted by the timely, dignified, and eloquent address delivered at the United Nations by His Holiness Pope Paul VI.

Mr. President, because it is impossible to embellish that which is perfect, I ask unanimous consent to have the Pope's address printed in the RECORD in its entirety.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TRANSLATION OF POPE'S ADDRESS AT U.N.

(NOTE.—Here is an English translation of Pope Paul VI's address in French to the U.N. General Assembly today:)

UNITED NATIONS, N.Y., October 4.—As we commence our address to this unique world audience, we wish to thank your Secretary General, U Thant, for the invitation which he extended to us to visit the United Nations, on the occasion of the 20th anniversary of the foundation of this world institution for peace and for collaboration between the peoples of the entire earth.

Our thanks also to the President of the General Assembly, Mr. Amitore Fanfani, who used such kind language in our regard from the very day of his election.

We thank all of you here present for your kind welcome, and we present to each one of you our deferential and sincere salutation. In friendship you have invited us and admitted us to this meeting; and it is as a friend that we are here today.

We express to you our cordial personal homage, and we bring you that of the entire second Vatican Ecumenical Council now meeting in Rome, and represented here by the eminent cardinals who accompany us for this purpose.

In their name and in our own, to each and every one of you, honor and greeting.

This encounter, as you all understand, marks a simple and at the same time a great moment. It is simple because you have before you a humble man; your brother; and among you all, representatives of sovereign states, the least invested, if you wish to think of him thus, with a minuscule, as it were symbolic, temporal sovereignty, only as much as is necessary to be free to exercise his spiritual mission, and to assure all those who deal with him that he is independent of every other sovereignty of this world.

But he, who now addresses you, has no temporal power, nor any ambition to compete with you. In fact, we have nothing to ask for, no question to raise; we have only a desire to express and a permission to request; namely, that of serving you insofar as we can, with disinterest, with humility and love.

FIRST DECLARATION

This is our first declaration. As you can see, it is so simple as to seem insignificant to this assembly, which always treats of most important and most difficult matters.

We said also, however, and all here today feel it, that this moment is also a great one. Great for us, great for you.

For us: you know well who we are. Whatever may be the opinion you have of the Pontiff of Rome, you know our mission.

We are the bearer of a message for all mankind. And this we are, not only in our own personal name and in the name of the great Catholic family; but also in that of those Christian brethren who share the same sentiments which we express here, particularly of those who so kindly charged us explicitly to be their spokesman here.

Like a messenger who, after a long journey, finally succeeds in delivering the letter which has been entrusted to him, so we appreciate the good fortune of this moment, however brief, which fulfills a desire nourished in the heart for nearly 20 centuries.

For, as you will remember, we are very ancient; we here represent a long history; we here celebrate the epilog of a wearying pilgrimage in search of a conversation with the entire world, ever since the command was given to us: Go and bring the good news to all peoples.

Now, you here represent all peoples, allow us to tell you that we have a message, a happy message, to deliver to each one of you and to all.

1. We might call our message a ratification, a solemn moral ratification of this lofty institution. This message comes from our historical experience.

As an expert in humanity, we bring to this Organization the suffrage of our recent predecessors, that of the entire Catholic episcopate and our own, convinced as we are that this Organization represents the obligatory path of modern civilization and of world peace.

In saying this, we feel we are making our own the voice of the dead and of the living; of the dead who fell in the terrible wars of the past; of the living who survived those wars, bearing in their hearts a condemnation of those who would try to renew wars; and also of those living who rise up fresh and confident, the youth of the present generation, who legitimately dream of a better human race.

And we also make our own the voice of the poor, the disinherited, the suffering, of those who hunger and thirst for justice, for the dignity of life, for freedom, for well-being and progress. The peoples of the earth turn to the United Nations as the last hope of concord and peace; we presume to present here, with their tribute of honor and of hope, our own tribute also. That is why this moment is great for you, also.

2. We feel that you are already aware of this. Harken now to the continuation of our message. It becomes a message of good wishes for the future. The edifice which you have constructed must never fall; it must be perfected and made equal to the needs which world history will present.

You mark a stage in the development of mankind from which retreat must never be admitted but from which it is necessary that advance be made.

To the pluralism of states, which can no longer ignore one another, you offer an extremely simple and fruitful formula of coexistence.

First of all, you recognize and distinguish the ones and the others. You do not confer existence upon states; but you qualify each single nation as fit to sit in the orderly congress of peoples.

That is, you grant recognition, of the highest ethical and juridical value, to each single sovereign national community, guaranteeing it an honored international citizenship.

A GREAT SERVICE

This in itself is a great service to the cause of humanity, namely to define clearly and to honor the national subjects of the world community, and to classify them in a juridical condition, worthy thereby of being recognized and respected by all, and from which there may derive an orderly and stable system of international life.

You give sanction to the great principle that the relations between peoples should be regulated by reason, by justice, by law, by negotiation; not by force, nor by violence, not by war, not by fear or by deceit.

Thus it must be. Allow us to congratulate you for having had the wisdom to open this hall to the younger peoples, to those states which have recently attained independence and national freedom. Their presence is the proof of the universality and magnanimity which inspire the principles of this institution.

Thus it must be. This is our praise and our good wish; and, as you can see, we do not attribute these as from outside; we derive them from inside, from the very genius of your institution.

3. Your charter goes further than this, and our message advances with it. You exist and operate to unite the nations, to bind states together.

Let us use this second formula: to bring the ones together with the others.

You are an association. You are a bridge between peoples. You are a network of relations between states. We would almost say that your chief characteristic is a reflection, as it were, in the temporal field, of what our Catholic Church aspires to be in the spiritual field; unique and universal.

In the ideological construction of mankind, there is on the natural level nothing superior to this. Your vocation is to make brothers not only of some but of all peoples, a difficult undertaking, indeed; but this it is, your most noble undertaking. Is there anyone who does not see the necessity of coming thus progressively to the establishment of a world authority, able to act efficaciously on the juridical and political levels?

WISH REITERATED

Once more we reiterate our good wish: Advance always. We will go further, and say: Strive to bring back among you any who have separated themselves, and study the right method of uniting to your pact of brotherhood, in honor and loyalty, those who do not yet share in it.

Act so that those still outside will desire and merit the confidence of all; and then be generous in granting such confidence. You have the good fortune and the honor of sitting in this assembly of peaceful community; hear us as we say: Insure that the reciprocal trust which here unites you, and enables you to do good and great things, may never be undermined or betrayed.

4. The inherent logic of this wish, which might be considered to pertain to the very structure of your organization, leads us to complete it with other formulas. Thus, let no one, inasmuch as he is a member of your union, be superior to the others: Never one above the other.

This is the formula of equality. We are well aware that it must be completed by the evaluation of other factors besides simple membership in this institution; but equality, too, belongs to its constitution.

You are not equal, but here you make yourselves equal.

For several among you, this may be an act of high virtue; allow us to say this to you, as the representative of a religion which accomplishes salvation through the humility of its divine founder. Men cannot be brothers if they are not humble.

It is pride, no matter how legitimate it may seem to be, which provokes tension and struggles for prestige, for predominance, colonialism, egoism; that is, pride disrupts brotherhood.

5. And now our message reaches its highest point, which is, at first, a negative point.

You are expecting us to utter this sentence, and we are well aware of its gravity and solemnity:

Not the ones against the others, never again, never more.

It was principally for this purpose that the organization of the United Nations arose: Against war, in favor of peace.

Listen to the lucid words of the great departed John Kennedy, who proclaimed, 4 years ago: "Mankind must put an end to war, or war will put an end to mankind."

Many words are not needed to proclaim this loftiest aim of your institution. It suffices to remember that the blood of millions of men, that numberless and unheard of sufferings, useless slaughter and frightful ruin, are the sanction of the pact which unites you, with an oath which must change the future history of the world.

WAR NEVER AGAIN

No more war, war never again. Peace, it is peace which must guide the destinies of peoples and of all mankind.

Gratitude to you, glory to you, who for 20 years have labored for peace. Gratitude and glory to you for the conflicts which you have prevented or have brought to an end. The results of your efforts in recent days in favor of peace, even if not yet proved decisive, are such as to deserve that we, presuming to interpret the sentiments of the world, express to you both praise and thanks.

Gentlemen, you have performed and you continue to perform a great work: the education of mankind in the ways of peace. The U.N. is the great school where that education is imparted. And we are today in the assembly hall of that school.

Everyone taking his place here becomes a pupil and also a teacher in the art of building peace. When you leave this hall, the world looks upon you as the architects and constructors of peace.

Peace, as you know, is not built up only by means of politics, by the balance of forces, and of interests. It is constructed with the mind, with ideas, with works of peace.

You labor in this great construction. But you are still at the beginnings.

Will the world ever succeed in changing that selfish and bellicose mentality which, up to now, has been interwoven into so much of its history?

It is hard to foresee; but it is easy to affirm that it is toward that new history—peaceful,

truly human, history, as promised by God to men of good will, that we must resolutely march; the roads thereto are already well marked out for you; and the first is that of disarmament.

LET THE ARMS FALL

If you wish to be brothers, let the arms fall from your hands. One cannot love while holding offensive arms.

Those armaments, especially those terrible arms which modern science has given you, long before they produce victims and ruins, nourish bad feelings, create nightmares, distrust, and somber resolutions; they demand enormous expenditures; they obstruct projects of union and useful collaboration; they falsify the psychology of peoples.

As long as man remains that weak, changeable and even wicked being that he often shows himself to be, defensive arms will, unfortunately, be necessary.

You, however, in your courage and valiance, are studying the ways of guaranteeing the security of international life, without having recourse to arms.

This is a most noble aim, this the peoples expect of you, this must be obtained.

Let unanimous trust in this institution grow, let its authority increase; and this aim, we believe, will be secured.

Gratitude will be expressed to you by all peoples, relieved as they will then be from the crushing expenses of armaments, and freed from the nightmare of an ever imminent war.

We rejoice in the knowledge that many of you have considered favorably our invitation, addressed to all states in the cause of peace from Bombay, last December, to divert to the benefit of the developing countries at least a part of the savings, which could be realized by reducing armaments.

We here renew that invitation, trusting in your sentiments of humanity and generosity.

In so doing, we become aware that we are echoing another principle which is structural to the United Nations, which is its positive and affirmatively high point; namely, that you work here not only to avert conflicts between states, but also to make them capable of working the ones for the others.

You are not satisfied with facilitating mere coexistence between nations; you take a much greater step forward, one deserving of our praise and our support—you organize the brotherly collaboration of peoples.

In this way a system of solidarity is set up, and its lofty civilized aims win the orderly and unanimous support of all the family of peoples for the common good and for the good of each individual.

This aspect of the organization of the United Nations is the most beautiful; it is its most truly human visage; it is the ideal of which mankind dreams on its pilgrimage through time; it is the world's greatest hope; it is, we presume to say, the reflection of the loving and transcendent design of God for the progress of the human family on earth—a reflection in which we see the message of the Gospel which is heavenly become earthly.

Indeed, it seems to us that here we hear the echo of the voice of our predecessors, and particularly of that of Pope John XXIII, whose message of "Pacem in Terris" was so honorably and significantly received among you.

RIGHTS PROCLAIMED

You proclaim here the fundamental rights and duties of man, his dignity, his freedom—and above all his religious freedom. We feel that you thus interpret the highest sphere of human wisdom and, we might add, its sacred character. For you deal here above all with human life; and the life of man is sacred; no one may dare offend it. Respect for life, even with regard to the great problem of birth, must find here in your assembly its highest affirmation and its most reasoned defense.

You must strive to multiply bread so that it suffices for the tables of mankind, and not rather favor an artificial control of birth, which would be irrational, in order to diminish the number of guests at the banquet of life.

It does not suffice, however, to feed the hungry, it is necessary also to assure to each man a life conformed to his dignity. This too you strive to perform. We may consider this the fulfillment before our very eyes, and by your efforts, of that prophetical announcement so applicable to your institution: "They will melt down their swords into plowshares, their spears into pruning forks."

Are you not using the prodigious energies of the earth and the magnificent inventions of science, no longer as instruments of death but as tools of life for humanity's new era?

We know how intense and ever more efficacious are the efforts of the United Nations and its dependent world agencies to assist those governments who need help to hasten their economic and social progress.

We know how ardently you labor to overcome illiteracy and to spread good culture throughout the world; to give men adequate modern medical assistance; to employ in man's service the marvelous resources of science, of technique, and of organization—all of this is magnificent, and merits the praise and support of all, including our own.

We, ourself, wish to give the good example, even though the smallness of our means is inadequate to the practical and quantitative needs. We intend to intensify the development of our charitable institutions to combat world hunger and fulfill world needs. It is thus, and in no other way, that peace can be built up.

7. One more word, gentlemen, our final word: this edifice which you are constructing does not rest upon merely material and earthly foundations, for thus it would be a house built upon sand; and above all, it is based on our own consciences.

The hour has struck for our "conversion," for personal transformation, for interior renewal. We must get used to thinking of man in a new way; and in a new way also of men's life in common; with a new manner, too, of conceiving the paths of history and the destiny of the world, according to the words of Saint Paul: "You must be clothed in the new self, which is created in God's image, justified and sanctified through the truth" (Esphesians 4:23).

The hour has struck for a halt, a moment of recollection, of reflection, almost of prayer; a moment to think anew of our common origin, our history, our common destiny.

Today as never before, in our era so marked by human progress, there is need for an appeal to the moral conscience of man. For the danger comes not from progress nor from science: indeed, if properly utilized, these could rather resolve many of the grave problems which assail mankind.

No, the real danger comes from man himself, wielding ever more powerful arms, which can be employed equally well for destruction or for the loftiest conquests.

In a word, then, the edifice of modern civilization must be built upon spiritual principles which alone can not only support it but even illuminate and animate it.

We believe, as you know, that these indisputable principles of superior wisdom must be founded upon faith in God, that unknown God of whom Saint Paul spoke to the Athenians in the Areopagus; unknown to them, although without realizing it, they sought Him and He was close to them, as happens also to many men of our times.

To us, in any case, and to all those who accept the ineffable revelation which Christ has given us of Him, He is the living God, the Father of all men.

Mr. CLARK. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I am glad to yield.

Mr. CLARK. Mr. President, it was a great privilege to be at the United Nations yesterday afternoon when the Pope delivered his stirring message in support of peace, disarmament, and so many other important problems which Congress has striven to solve.

I wish to tell my good friend the Senator from Rhode Island that the Pope's address was one of the most moving and effective public addresses I have ever been privileged to hear.

Mr. PASTORE. I thank the Senator from Pennsylvania. I agree with him wholeheartedly.

Mr. HOLLAND. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I am glad to yield.

Mr. HOLLAND. Speaking as a humble member of another faith, I heartily concur in the sentiments just expressed by the Senator from Rhode Island and the Senator from Pennsylvania.

I believe that the visit of Pope Paul VI was a remarkable occurrence, one of the greatest historic events in years—or ever.

Let me say to my distinguished friend that it seems to me there has never before been a better showing of the value of scientific achievement and scientific development than in connection with the visit, the appearance, and the speeches of Pope Paul VI.

During the day, I could not help thinking about the fact that he had arrived in this country on a huge jetplane and returned to Rome the same way. He completed his mission, including the many appearances which he made, in a comparatively few hours. That, of course, is a result of the use of one of the developments of science.

I could not help thinking, when he was speaking over television, that he was being heard and viewed by approximately 100 to 150 million people in this great country, in Canada, and in Mexico. Television and radio were contributing greatly to the effectiveness of the Pope's visit and to the value of his mission.

When I heard that the Early Bird communication satellite had been used to transfer to various nations in Western Europe the same message, the same pictures of his appearance, I could not help feeling that that was perhaps one of the greatest illustrations of what modern science has made possible by way of a greater impact over what would be a great historic incident without the advantages which I have mentioned, but which has reached such a large part of the world as a result of the outstanding developments of science.

Mr. PASTORE. I thank the Senator.

Mr. PELL subsequently said: Mr. President, the historic pilgrimage of Pope Paul VI to the United Nations yesterday has left all of us profoundly moved and profoundly inspired by his eloquent plea for the cause of peace. All of us who were in New York, and millions everywhere of all faiths who witnessed the luminous events of the day on television, will never forget the tireless good will and humility

with which this great leader of the Christian world approached his immense task. His historic address to the assembled representatives of the nations of the world will go down in history, I am certain, as a major milestone—history may even regard it as a watershed—along the arduous road to peace in the nuclear age. By his very visit to our shores—underscoring the depth of his feelings and his support for the United Nations—Pope Paul has rendered immense service to mankind and to the preservation and improvement of our civilization.

Finally, Mr. President, the visit of Pope Paul to our shores has demonstrated in the most forceful terms the vital and extremely influential role which the Catholic Church is playing in the affairs of nations. The Catholic Church, by virtue of its ancient and powerful organization is without doubt the strongest single advocate for spiritual survival in the often-chaotic temporal affairs of our times. But it is filling this role effectively because it is participating vitally in the affairs of the world—as Pope Paul's visit so dramatically demonstrated. Once again, it seems to me, we are forcefully reminded that the whole question of the U.S. official relationship with the Vatican should be reexamined with a view to establishing some sort of diplomatic relationships between those two great forces for peace in our world today, the United States and the Vatican.

The PRESIDING OFFICER. Is there further morning business?

THE FALLACY OF THE ARGUMENTS FOR COMPULSORY UNIONISM

Mr. ERVIN. Mr. President, the demand for repeal of section 14(b) of the Taft-Hartley Act, which authorizes the States to enact right-to-work laws, is a demand for compulsory unionism. In the last analysis, compulsory unionism is based upon the startling proposition that the right to work is a right which the union may sell and which the individual American must buy if he is to be permitted to earn daily bread for himself and his family.

Those who would rob supposedly free Americans of their right to join or refrain from joining a union at their own election advance three arguments to justify the destruction of this freedom. These arguments are as follows:

First. That union security, that is, the existence of the union and its ability to operate effectively, depends upon compulsory membership.

Second. That compulsory unionism is merely a form of democratic majority rule.

Third. That the union negotiates contracts for the benefit of all the employees of the bargaining unit, and compulsory unionism is necessary to make unwilling employees pay for the benefits such union action confers upon them and keep them from being so-called free riders.

The argument that union security is dependent upon compulsory unionism is totally lacking in validity. Unions are voluntary associations. In this respect, they are like churches, and civil, fraternal, and political organizations. These voluntary associations are wholly dependent upon voluntary persuasion for securing members, and notwithstanding this fact, function effectively. Any union can do likewise.

Indeed, a union is more secure in its existence and its ability to function effectively if it obtains members as a result of its good work rather than by compulsion.

The argument that compulsory unionism is merely a form of democratic majority rule is equally fallacious. Democratic majority rule recognizes the right of the minority to dissent and oppose the programs of the majority. When employees are required to join and support a union regardless of their desire to oppose it and its programs, the whole basis of democratic majority rule disappears and is supplanted by monopoly rule, which has no place in a free society.

A simple illustration discloses the unsoundness of the majority rule argument. The Democratic Party is the majority party in the United States. It is engaged in an effort to give all Americans—Democrats, Republicans, and independents alike—the benefits of the Great Society. According to the free rider argument, the Democratic Party, as the majority party, should be empowered to compel the Republicans and independents, as the minority, to make contributions to the Democratic National Committee for the benefits which the Democratic Party is conferring upon them.

The so-called free rider argument affords no justification for compulsory unionism. In a sense all of us are free riders. We receive the heritage of the past without paying anything for it. Many voluntary associations, such as churches, and civic, fraternal, and political organizations, carry on activities which benefit a great many of us who do not contribute any financial or other support to them. For this reason, it is absurd for any particular voluntary organization which may happen to benefit any group of people to demand that such people be compelled to support it financially or otherwise against their will. That is essentially what unions do when they demand compulsory unionism.

To be sure, a union may be empowered under existing law by a majority vote of the employees in a particular bargaining unit to negotiate contracts binding upon the minority of nonmember employees as well as the majority of member employees. This power is not thrust upon the union against its will. On the contrary, it is diligently sought by the union whose acquisition of it deprives the minority of nonunion employees of their freedom to contract for themselves. As a consequence, the demand of the union that the minority of nonmember employees pay dues to the union for negotiating the contract is tantamount to the demand by the union that nonmembers be compelled to pay for having their freedom of contract taken away and exercised against their will.

The free-rider argument would have more substance if the dues of the unions were devoted solely to the cost of negotiating contracts. The truth is that only a part of such dues is devoted to such purposes. The unions spend vast sums of money obtained from dues in carrying out various programs such as lobbying for legislation, political campaigns, and social and economic propaganda and the like. The records even disclose that during recent years some unions or some foundations established by unions have used moneys derived from union dues to subsidize religious organizations which disseminate doctrines some of the dues-paying members disbelieve.

I respectfully submit that it is incompatible with freedom for any working man to be coerced by compulsory unionism agreements to contribute money to un on programs when he himself is not convinced that they are for his benefit. No amount of sophistry can erase these plain facts:

First. That no American is truly free if he is denied his basic right to join or refrain from joining a union according to his own election.

Second. That no injustice is done to a union by requiring it to obtain its members by voluntary persuasion just as churches and other voluntary organizations obtain theirs.

When all is said, no good union needs a compulsory unionism agreement to obtain members, and no bad union should have compulsory unionism.

FREEDOM OF INFORMATION: S. 1160

Mr. ERVIN. Mr. President, last week the Senate Judiciary Committee reported favorably S. 1160, to assure availability and distribution of Government information. This bill has been the subject of hearings and study for several years and was passed by the Senate last year. I think the junior Senator from Missouri and his staff of the Administrative Practice and Procedure Subcommittee are to be commended for their diligent and able efforts to draft a measure which will meet the demands of the public's right to information and the Government's need in some cases to restrict information.

A report in the Washington Post states:

> There is no chance that Congress can pass the bill this year, and prospects of eventual approval next year are clouded by administration opposition.

I trust that this prognosis will prove incorrect, and that the Senate will act promptly and favorably on the bill. Certainly, the fact that it has received careful study, and that there are 22 Members of the Senate from 18 States actively supporting it should serve to illustrate the widespread interest in its early approval. As for administration opposition, I cannot believe that in an administration devoted to improving the public welfare and encouraging the full participation of all citizens in government, there can be any real objection to the goal of assuring the people's right to full information about their Government.

Executive withholding of information from private citizens as well as from Congress is a problem which is often at the heart of hundreds of complaints

about arbitrary bureaucratic practices which yearly come to the Constitutional Rights Subcommittee.

Mr. President, it is unfortunately not an unfamiliar occurrence when stated policies of the administration are frustrated by administrators caught in the maze of their own rules and regulations. The consequences of such an occurrence can be twofold: In addition to defeating the goals of the President and Congress, administrative practices may violate rights to due process, to privacy, and to public information. This was, I believe, amply illustrated during the recent hearings by the Constitutional Rights Subcommittee on the abuses of psychological testing and the invasion of privacy it represents.

Another case in point is the State Department's procedure for personnel investigations of college students who apply for summer jobs. An example recently brought to the attention of the Constitutional Rights Subcommittee involved an 18-year-old college sophomore who was asked questions of the most personal nature about her personal life and habits during a security interview. The experiences of this young lady with some of the employee practices of the Department have certainly discouraged her from her original goal of a career in Government service. I fear she may be one of many.

I ask unanimous consent to place in the RECORD at this point the exchange of correspondence between the subcommittee and the State Department concerning this case and the Department's practices.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

JUNE 28, 1965.

Hon. DEAN RUSK,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In connection with our study of the rights of Federal employees and invasion of privacy, it has come to the subcommittee's attention that the Department of State is conducting security investigations of prospective summer college employees.

If reports of the nature of some of these investigations are true, it would seem to me that the State Department is playing a large role in discouraging capable young people from considering a career in Government.

For example, one case recently involved an 18-year-old college student who had previously worked for the State Department and was being considered for employment this summer. She was interviewed alone by a young investigator whose questioning about her personal private life, particularly about sex matters, went far beyond the invasion of privacy required even for a top security clearance.

An additional issue and one which is of concern to the subcommittee in connection with its recent hearings on psychiatric and psychological reports, is the questioning about this girl's visit to a psychologist while in high school. The interviewer assumed this signified psychiatric treatment and she, a minor, was asked to sign papers giving him authority to check records of any doctor.

The following day, the same investigator appeared in the girl's neighborhood, and after questioning neighbors about her activ t'es (apparently, even as to whether she sat in parked cars near her parent's house), he questioned a friend of the young lady who was visiting with her at the time—this after calling her into a neighbor's house.

This case illustrates a number of undesirable tendencies in Government agencies today; one is the penalizing of the prospective employee whose parents may have taken advantage of the counseling services of psychologists and psychiatrists to assist in resolving the usual problems of their teenage children. These records may then be part of the young person's security investigation in later years, and the very fact that such a visit is part of the person's medical history, apparently, might cause a personnel or security officer to suggest a psychiatric examination and psychological testing. As you know, Under Secretary William Crockett testified on this subject on June 7.

Complaints received by this subcommittee suggest that such information obtained in the course of security interviews and investigations tends to acquire a confidential medical status in personnel files, and, interpreted arbitrarily and summarily, can cause irreparable harm to the individual.

Would you please describe for the subcommittee your policy regarding security investigations for summer employees? In addition, I should appreciate information concerning the guidelines which your security interviewers and investigators are expected to follow, as well as copies of any pertinent directives and regulations on the matter. In view of some of the reported instances of recent interviews, I hope the Department already has issued or is considering a directive similar to that issued by Assistant Secretary of Defense Walter Skallerup regarding the injection of improper matters into security inquiries.

I should appreciate an early reply on this matter.

Thanking you for your assistance in our study, and with all kind wishes, I am,

Sincerely yours,

SAM J. ERVIN, JR.,
Chairman.

DEPARTMENT OF STATE,
Washington, July 21, 1965.

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of June 28, 1965, concerning security investigations of summer employees in the Department. I regret the delay in our reply.

The Office of Security, which has responsibility for investigation and clearance procedures in the Department, uses a uniform policy in handling the application of summer employees as followed with all other applicant categories. The procedural requirements and guidelines are set forth in Executive Order No. 10450. Basic requirements include the name and fingerprint processing, commonly called the national agency check, and full background investigation. The aforementioned procedure is a basic one used by the Department and other executive agencies concerning the processing of any category of applicants who will be dealing with sensitive, classified material.

In connection with the particular case you cited in your letter, I want to assure you that any information developed during the course of any of our investigations that is of a medical nature, is referred to our Medical Division for proper evaluation and judgment.

The Office of Security has issued a number of guidelines in the form of a handbook, office directives, and instructions of a classified nature pertaining to investigation and interview procedures which are very similar to those contained in the directive issued on November 26, 1962, by Assistant Secretary of Defense, Walter Skallerup. The Department has not disseminated an unclassified directive similar to that issued by Assistant Secretary of Defense Skallerup. Appropriate consideration will be given to the issuance of such a document.

The Secretary has often expressed his strong feelings in regard to maintaining the civil and private rights of employees of the Department, and those who are applicants for employment with the Department. Clearance procedures used within the Department are under regular review by substantive officers. This attention, the Department believes, was demonstrated to your subcommittee by the testimony of Deputy Under Secretary William Crockett on June 7, 1965.

Please advise me if the Department may be of further assistance to you.

Sincerely,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations,
(For the Secretary of State.)

Mr. ERVIN. Mr. President, one of the hallmarks of a government of law as opposed to one of men, is that the citizen has prior notice of what the law requires of him and of all others, including Government officials. Congress has attempted to instill in our vast bureaucracy the same principle, so that by published rules, regulations, and directives, the citizen may know what to expect when he deals with Government agencies.

It was to further this principle that I have cosponsored S. 1160 which should clarify the requirement of publication or availability to the public of regulations and other directives on which administrative decisions are based. This should be especially important where rights of civil servants are involved. The State Department, as this case shows, has classified the directives and instructions governing its investigation and interview procedures, while the Department of Defense has made public a directive governing the standards and questioning of its investigators.

An applicant or employee should be able to refer to some agency guideline when he feels his rights are being violated, and not just bear in silence an indiscriminate invasion of his privacy. The Department states that "appropriate consideration will be given to the issuance of such a document." It is to be hoped that the Department will take this action at an early date, thereby contributing in its own way to the furthering of the cause of freedom of information, not only for the civil servant, but for all citizens.

PRESIDENTS JOHNSON AND DIAZ ORDAZ: AN ALLIANCE FOR PROGRESS

Mr. MANSFIELD. Mr. President, yesterday's announcement of an agreement in principle between the United States and Mexico to explore the feasibility of a nuclear-powered water desalinization plant is indeed heartening news. Not only is it a triumph of reasonable and sensible men in their quest for reasonable and sensible answers to international disputes, but it is, as well, strong evidence that nuclear power when harnessed for peaceful purposes can be used for the mutual benefit of mankind. This fact is, perhaps, one of the most glaring paradoxes of modern civilization; that man's greatest threat can also be man's

hope for the future—that the problem of the increasing scarcity of fresh, potable water can be solved by nuclear energy. I have no doubt that man's greatest resource for the future is his ability to harness the technology of destruction for peaceful purposes and the welfare of society.

Under the proposed plan which was announced yesterday at the First International Symposium on Water Desalinization, a desalting plant would be built to service arid areas of Sonora and Baja California in Mexico and portions of California and Arizona. In addition to supplying fresh water for irrigation and consumer use, the reactor plant will furnish electricity for thousands of American and Mexican homes in the area.

Both President Lyndon B. Johnson and President Gustavo Diaz Ordaz are to be complimented for their understanding and imaginative leadership in seeking a mutually beneficial and enduring solution to the water salinity problem of the Colorado River which has plagued United States-Mexican relations for many years and for their further initiative in the field of desalinization which this significant agreement embodies.

Mr. President, I ask unanimous consent that an article by the Associated Press entitled "United States-Mexican Desalting Plant" which appeared in the New York Herald Tribune of October 5 and an editorial from the October 5 Philadelphia Inquirer entitled, "United States-Mexican Nuclear Water Plan" be printed at this point in the RECORD.

There being no objection, the article and the editorial were ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Herald-Tribune, Oct. 5, 1965]

UNITED STATES-MEXICO DESALTING PLANT

WASHINGTON.—The United States and Mexico have agreed in principle to explore possibilities of building a huge nuclear-powered water desalting plant to service neighboring areas of both countries, the White House disclosed today.

Dr. Donald Hornig, Chief Science Adviser to the White House, made the disclosure in addressing the opening of the First International Symposium on Water Desalination.

He said the President had asked him to announce the two nations had agreed in principle on undertaking a technological and economic feasibility study of building the big reactor that would be designed to desalt water for these arid regions:

Sonora and Baja California, in Mexico, and portions of Arizona and California; the two Mexican states are on opposite sides of the Gulf of California.

Dr. Hornig gave no further details as to size or location of the proposed plant. A spokesman for the Interior Department, who said the announcement came as a complete surprise, said additional details would not be available until later this week when the White House is expected to announce the signing of the agreement.

A presumably likely spot for the location of the proposed plant would be at the top of the Gulf of Baja from which it could service the Mexican areas and portions of California and Arizona.

The proposed study would be separate from another currently underway between the U.S. Government and the Metropolitan Water District of California to explore possibilities of establishing a nuclear-powered, 150-million-gallons-a-day desalting plant to service areas primarily around Los Angeles. Presumably any Mexican-American plant would also be in the 100-million-gallons-a-day range.

Other sources told a reporter if such a reactor were built it would be under the sponsorship of the International Atomic Energy Agency. Presumably the reactor plant would also furnish electricity in addition to desalting sea water.

Dr. Hornig made the announcement after reading a message of welcome to the delegates on behalf of the President. Mr. Johnson said in his message that while "heartening results" had been achieved in the United States in the last 13 years toward bringing down the cost of desalting saline water, "the cost of desalting must be drastically reduced."

New York City's reserve water supply for yesterday, the day before, last year and 1961, the year the drought began:

	Billion gallons	*Percent capacity*
October 4, 1965	173.3	36.4
October 3, 1965	173.1	36.3
October 4, 1964	234.8	49.3
October 4, 1961	344.3	72.3

[From the Philadelphia (Pa.) Inquirer, Oct. 5, 1965]

UNITED STATES-MEXICAN NUCLEAR WATER PLAN

Over the years the United States and Mexico have devoted much energy and possibly millions of words to negotiations concerning water—sometimes with amicable results and often with neither party fully satisfied by the outcome. Now comes an agreement between the two nations which both sides ought to find completely acceptable.

We refer to the joint studies to be undertaken by Mexico and the United States aimed at eventual construction of a great nuclear water desalting plant to serve the arid border regions of the Southwest: Sonora and Baha on the Mexican side; Arizona and California on the U.S. side.

News of the project—announced at the opening of the first international symposium on water desalinization in Washington, D.C.—should impress delegates from many countries and guarantee they will take home an inspiring story of international cooperation.

The United States is working on desalinzation with other nations. But the possibilities for international cooperation should be best of all between two close American neighbors with a mutual water shortage problem to solve.

There are many water experts who scoff at the economic feasibility of desalting seawater. But the longrun facts argue powerfully against their doubts. More than four-fifths of the earth's surface is covered with water—of which 97 percent is too salty for human use. The tiny fraction of usable water, moreover, is being constantly and increasingly contaminated by the expanding civilization that depends upon it.

Desalinization—with other water purifying improvements—seems the most reasonable hope for satisfying future water requirements.

The administration should be congratulated for alining itself with Mexico in a project so much promise of mutual benefit and betterment for all mankind.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PASTORE. I would hope the statement which was just made by the distinguished majority leader would serve as an example and an admonition to the rest of the world that we intend to use our primacy in the development of nuclear and atomic energy for peaceful purposes; that we issue a clarion call to all the nations of the world that this is our intention and hope we can have cooperation everywhere in the world.

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator from Rhode Island for those remarks. No one knows better than he the potential of atomic energy in satisfying the need for water in this world. As far as our country is concerned, northern Mexico and the southwestern part of the United States, which are semiarid areas, do not furnish enough sustenance for their rapid increasing population. I hope this plan can be the framework for countries joining in similar efforts for the benefit of their people.

Mr. TYDINGS. Mr. President, I would like to associate myself with the statement made by the distinguished majority leader [Mr. MANSFIELD].

DO-IT-YOURSELF REAPPORTIONMENT HEARINGS

Mr. TYDINGS. Mr. President, Senate Joint Resolution 103, to amend the Constitution of the United States to permit the malapportionment of State legislatures, has been reported out of the Judiciary Committee and will soon be placed on the Senate Calendar. As has been widely discussed in the press, this amendment was reported by the Judiciary Committee without recommendation.

Senate Joint Resolution 103 was also reported without any hearings having been held on this latest version of the proposed amendment. The feeling in the Judiciary Committee apparently was that no testimony was necessary in view of the extensive hearings that were held last spring on Senate Joint Resolution 2—the original Dirksen amendment.

I felt, and continue to feel, that hearings on Senate Joint Resolution 103 would serve a useful purpose. There is not a single sentence in Senate Joint Resolution 103 that is the same as Senate Joint Resolution 2. Indeed, the principal sponsor has taken pains to point out the many differences between Senate Joint Resolution 103 and his earlier version.

Hearings were particularly necessary, in my judgment, because this is a constitutional amendment and not an ordinary bill. Moreover, it is an amendment of the most fundamental importance to the structure of our Union.

Unlike a routine bill, a constitutional amendment cannot be repealed, amended, or redrafted in a year or two to correct errors. This constitutional amendment, if adopted, will determine the operation of our State governments for decades to come.

It is not enough merely to know whether one is generally for or against the basic principle of allowing our State legislatures to deviate, under certain conditions, from the demands of the equal protection clause. Every word, every phrase of this proposed amendment deserves the most searching, critical scrutiny from proponents and opponents alike.

Mr. President, this is the age of "do-it-yourself." When the Judiciary Com-

mittee decided not to hold hearings on Senate Joint Resolution 103, I wrote to most of the witnesses who had testified against Senate Joint Resolution 2 and inquired whether they were opposed to the revised Dirksen amendment.

I ask unanimous consent that the text of the letter I addressed to these witnesses be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

As you undoubtedly know from the press, Senator DIRKSEN has introduced a new version of his constitutional amendment.

Those of us who led the fight against his earlier amendment found your statement before the Constitutional Amendments Subcommittee indispensible. The defeat of the earlier amendment is largely attributable to the fact that we had the better arguments, and these came from persons such as yourself.

The subcommittee today favorably reported the latest version without holding hearings. It is, therefore, vitally important to me, to my colleagues on the Judiciary Committee, and to our supporters in the Senate to have your views on this recent draft.

Specifically, I hope you could tell me:

1. Whether you are opposed to the new amendment.

2. Whether the changes that Senator DIRKSEN has proposed meet your earlier criticisms, and if not, in what respects.

3. Whether you have any criticisms of the revised amendment that you did not make concerning the earlier version.

For background, I am enclosing the text of the revised Dirksen amendment and statements about it which Senators DIRKSEN, DOUGLAS, and I have made. Since Senator DIRKSEN is anxious that his amendment be considered at an early date, I would appreciate your prompt reply. If possible, I suggest that it be in a form that I can make public should the need arise.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TYDINGS. Mr. President, I ask unanimous consent that I may have 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TYDINGS. Mr. President, to date I have received 20 replies. They are unanimous in opposing the new rotten borough amendment. Among those who have replied are distinguished mayors, labor leaders, representatives of governmental and civic organizations, professors, and practicing lawyers. Here is a sample of their answers:

Mayors: The United States Conference of Mayors finds the new Dirksen proposal "unacceptable" and urges the Senate "to hold fast in its rejection of all such efforts to subvert the democratic principles sustained in the Supreme Court's ruling."

This position is supported by the Honorable Jerome P. Cavanagh, mayor of the city of Detroit and president of the National League of Cities; the Honorable James H. J. Tate, mayor of the city of Philadelphia; and the Honorable Theodore R. McKeldin, mayor of the city of Baltimore.

Governmental organizations: The distinguished Advisory Commission on Intergovernmental Relations has expressed its opposition to any amendment which subverts the principle of apportionment of State legislatures on the basis of population. The Advisory Commission finds Senate Joint Resolution 103 particularly objectionable because it "would appear to require that in the future any specific apportionment of any State legislature would have to be approved at a statewide referendum. This would not only be contrary to the recommendations mentioned above but also would foreclose the use of an approach that was recommended by the Commission and that has been used in a number of States to assure that periodic apportionment actually occurs whether or not the legislative body can agree."

Civic organizations: The American Jewish Congress finds that the revised Dirksen amendment would authorize apportionment plans "apparently based on geography or political subdivisions that could be used to mask deliberately discriminatory reapportionment plans."

The Americans for Democratic Action call Senate Joint Resolution 103 "another effort to return State government to the horse and buggy era."

The National Association for the Advancement of Colored People has reaffirmed its opposition and calls the Dirksen proposal "a threat to progress in the field of civil rights."

The American Ethical Union has also expressed its opposition to the revised Dirksen amendment.

Professors: Dean Erwin N. Griswold, of the Harvard Law School, has written of his opposition to Senate Joint Resolution 103. He says:

The changes made in Senator DIRKSEN'S most recent proposal do show the soundness of the criticisms which were made of his earlier proposal. However, in my view, they are not adequate to make the new proposal sound or desirable. The fact remains that in the United States in this last third of the 20th century we should believe in equal democracy.

Prof. Robert B. McKay, associate dean of the New York University School of Law, has demonstrated why hearings are so vitally necessary on Senate Joint Resolution 103. In Dean McKay's opinion there was "a certain integrity about the directness of the language in the original version—of the Dirksen amendment." With the latest version, however, he feels that "the language has become so obscure—almost inarticulate—that the unwary may be deluded into believing that this is in fact a democratic proposal."

Dean McKay ably demonstrates, even assuming the latest version permits judicial review of reapportionment plans—a point which is by no means certain—that the crucial phrase "effective representation in the State's legislature of the various groups and interests making up the electorate" is so vague as to be incapable of sound judicial interpretation. As Professor McKay points out, Justices Clark and Stewart developed the notion of "effective representation" and appeared to be in substantial agreement as to its meaning when Reynolds against Sims and its companion cases were handed down on June 15, 1964. They were unable to agree, however, on the proper disposition of four of the nine reapportionment cases decided 1 week later.

Prof. Andrew Hacker, of Cornell University, also makes an excellent point in his letter about the ambiguity of the phrase "various groups and interests" that appears in the latest Dirksen amendment. Professor Hacker points out:

The notion is that there exist certain interests which deserve representatives regardless of the number of people such an interest may contain. There is, in a word, a real class bias here. For such interests as the poor or Negroes or even city dwellers are invariably put in one large group. In contrast the middle class is usually cut and sliced into literally dozens of groups: architects, applegrowers, accountants, advertisers, etc. Under such a tendency the middle class—and especially businessmen—gets far more representation.

Prof. Gordon E. Baker, chairman of the Department of Political Science of the University of California, has sent a comprehensive analysis of the weakness of the Dirksen amendment. He stresses the ambiguous and highly original procedure which requires ratification of the amendment by a partially reapportioned State legislature.

Dean Jefferson B. Fordham, of the University of Pennsylvania Law School, points out in his letter that "the revised version is open to serious objection" and urges "negative action."

Prof. John J. Flynn, of the University of Utah College of Law, finds the language of the new Dirksen proposal "objectionable upon general policy grounds and on several specific grounds of careless drafting and internal ambiguity." He concludes that Senate Joint Resolution 103 "will continue frustrated State government."

Labor: Gus Tyler, assistant president of the International Ladies' Garment Workers' Union, has written an exceedingly thoughtful critique of the latest Dirksen amendment.

Lawyers: Burke Marshall, the distinguished former Assistant Attorney General of the United States in charge of the Civil Rights Division, points out in his letter that "the main objections to the amendment are not met" by the new version.

Senate Joint Resolution 103—

Marshall observes—

deviates from the basic principle of equality without good cause. It would mark the first time in our history that the Constitution was amended to deprive the people of the United States of equality among themselves, rather than to guarantee that basic right.

Marshall focuses attention clearly on the discriminatory purpose of the proposed amendment, even in its revised version:

In addition, the amendment would tend to perpetuate a system of government which has failed in most States because it has resulted in State legislatures that are not responsive to the major need of this century—the urbanization of our society. There is no dispute but that the purpose of the amendment is to create a means by which the people of the cities can be deprived of part of the political voice they would have in the State legislatures based on population. As

I stressed in my testimony, this will proportionately affect minority groups more than other segments of our society, and in particular will inevitably do damage to our national efforts to remedy the economic, social, and educational disadvantages which we as a Nation have placed upon Negro Americans.

Theodore Sachs, noted Detroit attorney experienced in handling reapportionment cases, has also written to express his continued opposition to the new Dirksen amendment.

Business: R. Peter Straus, president of the Straus Broadcasting Group, Inc.—radio station WMCA in New York—has written to stress that his original objections are not met by the revised Dirksen amendment. He points out:

The civil right of one vote for one man is not a right which majorities may take from minorities; nor, for that matter, is it a right which one generation should be allowed to take from the next.

Straus notes, as well, that State government would be weakened by passage of the Dirksen amendment, even dressed in its latest language. He says:

Our earlier criticisms apply with equal force to Senator DIRKSEN's new proposals. These are again efforts to underrepresent cities and suburbs in State government. They are, thus, ironically, proposals that would undermine the very same possibilities of strong State government which many of their supporters are eager to advance. Where these proposals would fail to represent true population balances, they would also serve to keep State governments weak and ineffective. Growing Federal presence can be the only result of such shortsighted distortion of representative government.

I ask unanimous consent that each of these letters concerning Senate Joint Resolution 103, from witnesses who testified before the Constitutional Amendments Subcommittee on the original Dirksen amendment, be inserted at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY.

DEAR ———: As you undoubtedly know from the press, Senator DIRKSEN has introduced a new version of his constitutional amendment.

Those of us who led the fight against his earlier amendment found your statement before the Constitutional Amendments Subcommittee indispensable. The defeat of the earlier amendment is largely attributable to the fact that we had the better arguments, and these came from persons such as yourself.

The subcommittee today favorably reported the latest version without holding hearings. It is, therefore, vitally important to me, to my colleagues on the Judiciary Committee, and to our supporters in the Senate to have your views on this recent draft.

Specifically, I hope you could tell me:

1. Whether you are opposed to the new amendment.

2. Whether the changes that Senator DIRKSEN has proposed meet your earlier criticisms, and if not, in what respects.

3. Whether you have any criticisms of the revised amendment that you did not make concerning the earlier version.

For background, I am enclosing the text of the revised Dirksen amendment and statements about it which Senators DIRKSEN, DOUGLAS, and I have made. Since Senator DIRKSEN is anxious that his amendment be considered at an early date, I would appreciate your prompt reply. If possible, I suggest that it be in a form that I can make public should the need arise.

Sincerely,

JOSEPH D. TYDINGS.

U.S. CONFERENCE OF MAYORS,
Washington, D.C., September 3, 1965.

Senator JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter of August 25. I have carefully reviewed Senate Joint Resolution 103, the latest in a series of resolutions proposed by Senator DIRKSEN to upset the Supreme Court's one-man, one-vote decision. In measuring the new proposal against the standard set in a series of resolutions adopted by the Nation's mayors over a period of years, we find the new Dirksen proposal unacceptable.

The U.S. Conference of Mayors, which has fought for many years for fair reapportionment of State legislatures, finds the latest version of the Dirksen constitutional amendment to block that objective no less objectionable than the earlier ones.

No matter what language is used for wrappings around these proposals to weaken the Supreme Court's one-man, one-vote ruling on the makeup of State legislatures, which for too long have denied urban citizens their right to equal voices in government, the intent is plain—to take away citizens' constitutional rights which the Court has reaffirmed.

The conference urges the Senate to hold fast in its rejection of all such efforts to subvert the democratic principles sustained in the Court's ruling. Mayors of its member cities want to get on with the job of attaining fair representation in legislatures which in our system of government hold controlling authority over municipalities. Apportionment wrongs which now exist must be redressed, and quickly. Such devices as the Dirksen amendment serve only to perpetuate those wrongs.

Please call on us if we can be of assistance in pointing out the inherent evils in the proposal.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

CITY OF DETROIT,
September 1, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: I very much appreciate your sending me the CONGRESSIONAL RECORD materials on the new version of the Dirksen amendment including your statement, Senator DIRKSEN's statement and Senator DOUGLAS' statement. I believe it is the same old effort sought to be put into a new format. The effect will be the same: It will perpetuate the malapportioned legislatures so roundly condemned by the decisions of the U.S. Supreme Court.

It was Gertrude Stein who said, "A rose is a rose is a rose." I never really fully appreciated what she was trying to say.

In answer to your specific questions:

1. I am unequivocally opposed to the new amendment.

2. The changes made by Senator DIRKSEN would like to make it appear that he has met some of my objections to prior versions. The truth is that the effect is the same—malapportioned legislatures.

3. This version would seek to clothe the latest version of the Dirksen proposal with the trappings of legality. It would not meet the fundamental criticism made by many witnesses that it would still perpetuate the overrepresentation and the lack of representation presently extant in many State legislatures. Through the device of "effective representation" allegedly diverse interests would find representation. This implies they are not now represented, that change means any representation they may have will be eliminated, and that the legislatures would not represent all of the people.

I continue to support your efforts to provide each citizen an equal voice in his State legislature.

Sincerely yours,

JEROME P. CAVANAGH,
Mayor.

CITY OF PHILADELPHIA,
September 1, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Committee on Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: Again, I want to thank you for keeping me informed on latest developments on the apportionment issue of our State legislatures.

To answer the questions raised in your letter of August 25, I am still firmly opposed to the new Dirksen amendment because its purpose is designed to frustrate the basic foundation of democratic government: equal representation. While the approach may be different, the ultimate destination remains unchanged. This is, of course, to perpetuate malapportionment of State legislatures by permitting a special group or interest to have more weight in the election of representatives than other American citizens.

This new amendment will not let the people decide this issue as claimed by Senator DIRKSEN. It simply continues opposition to the basic principle of recent Supreme Court decisions that both houses be reapportioned by population. It would override these Court decisions by providing an alternative form of representation other than population.

The proposed amendment is based on the undemocratic theory that representative government means representation of special groups and interests rather than the electorate. Consequently, this amendment must be defeated so that our legislatures will represent people, of whom all will stand equal before their government.

With all good wishes and kindest personal regards, I remain,

Sincerely yours,

JAMES H. J. TATE,
Mayor.

ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS,
Washington, D.C., September 19, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: This is in reply to your recent letter raising several questions regarding the views of the Advisory Commission with regard to Senate Joint Resolution 103 introduced by Senator DIRKSEN, and 30 cosponsors. The Commission's recommendations regarding State legislative apportionment were adopted following a comprehensive research project on this subject completed in December of 1962 and are incorporated in the report, apportionment of State legislatures. The Commission acted on this question a year and a half prior to the decision of the Supreme Court in *Reynolds* v. *Sims* and also, of course, prior to the introduction in Congress of proposed constitutional amendments dealing with State legislative apportionment. However, a number of the Commission's recommendations are directly relevant to the issues raised by the joint resolutions which have subsequently been introduced in Congress. The Commission dealt both with the basis of representation in State legislatures and with procedural steps for accomplishing apportionment.

The Commission recognized that the intergovernmental problems of State legislative apportionment were such that it should make a specific recommendation concerning the basis upon which State legislatures should be apportioned. The Commission arrived at the following conclusion:

"Equal protection of the laws would seem to presume, and considerations of the political equity demand, that the apportionment of both houses in the State legislature be based strictly on population."

This final decision, arrived at after long and searching deliberation, was not unanimous but it did reflect the thoughtful evaluation of numerous factors and careful consideration of the impact of this position on the Federal system.

Citing the equal protection of the law phrase of the 14th amendment, the majority of the Commission felt that "the State has no authority to classify people according to where they live—urban or rural areas—the type of work they do—laborer or banker—the type of education they have had—high school or college graduate—and authorize such classes to elect representatives in their State legislature in such a manner as to permit the bulk of the members of any such class to have more weight in the election of State legislators than the members of any other class.

The Commission found that the weight of history in this Nation supported the principle of apportionment strictly on the basis of population for both houses of State legislatures. The original constitutions of over two-thirds of the State gave either implicit or explicit recognition of this principal. In addition the Northwest Ordinance adopted under the Articles of Confederation in which each of the Original Thirteen States had one vote required that the legislative bodies of the States organized in the Northwest Territory be apportioned on the basis of population.

The majority of the Commission felt that "protection of minority interest or views does not mean the minority should be in a position to veto the desires of the majority. The protection given minority views and interests should not be a veto power in the legislative process, since other adequate protections are offered by both Federal and State constitutions."

Several of the procedural recommendations of the Commission are also relevant in light of the procedures that are prescribed in the proposed constitutional amendments before Congress. The Commission recommended that the apportionment formula, spelled out in clear and sufficient detail so that there could be no question as to its meaning, should be part of the Constitution and should be subject to periodic review at the polls. However, the actual apportionment of a State legislature should be accomplished by the legislature or other specified nonjudicial body or officer. The application of the constitutional provisions allows a great deal of discretion by the apportioning body. This can best be exercised through the political processes of accommodation, negotiation, and compromise which are present in a deliberative body.

Senate Joint Resolution 103 would require that the actual plan of apportionment be subject to a statewide referendum. In fact, as it now stands section 2 of the constitutional amendment proposed by Senate Joint Resolution 103 would appear to require that in the future any specific apportionment of any State legislature would have to be approved at a statewide referendum. This would not only be contrary to the recommendations mentioned above but also would foreclose the use of an approach that was recommended by the Commission and that has been used in a number of States to assure that periodic apportionment actually occurs whether or not the legislative body can agree. This is the use of a bipartisan or nonpartisan board or commission or an administrative officer or body to apportion legislative seats if the legislature fails to act within the time specified by the Constitution, or when the legislature acts in a manner which is subsequently declared unconstitutional by a court of competent jurisdiction. With the thought that it may be of interest to you, I am enclosing suggested State constitutional language developed by the Commission providing for such a procedure.

Sincerely yours,

WM. G. COLMAN,
Executive Director.

CITY OF BALTIMORE,
September 3, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senator, Maryland, Senate Office Building, Washington, D.C.

DEAR SENATOR TYDINGS: I have read with considerable interest the text of Senate Joint Resolution 103, Senator DIRKSEN's revised version of a constitutional amendment on apportionment of State legislatures, a copy of which you were kind enough to send to me.

Although at least some of the changes in this new version of the constitutional amendment appear to be an improvement, I must tell you that, taken as a whole, the revised version of the Dirksen amendment is still objectionable to me.

Many of the changes, in fact, create more problems and raise more questions than did Senator DIRKSEN's original constitutional amendment.

After reviewing Senate Joint Resolution 103, I must reiterate my support of the one-man, one-vote principle and state my opposition to this newest effort to dilute or modify this fundamental principle of our democracy.

I sincerely and firmly believe that the city of Baltimore, the State of Maryland and the United States would best be served by having both houses of each State legislature apportioned on the basis of equality of population.

Sincerely,

THEODORE R. MCKELDIN,
Mayor.

STATEMENT BY HOWARD M. SQUADRON, CHAIRMAN, COMMISSION ON LAW AND SOCIAL ACTION, AMERICAN JEWISH CONGRESS, ON SENATE JOINT RESOLUTION 103, DEALING WITH LEGISLATIVE APPORTIONMENT

As an organization deeply committed to the expansion of democratic practices and principles, the American Jewish Congress was among those groups which wholeheartedly supported the Supreme Court decisions outlawing malapportionment of State legislatures. We have vigorously opposed a variety of proposed amendments to the U.S. Constitution, all of which seek, to some extent or other, to undo those decisions. The views of the American Jewish Congress were presented in testimony before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee on May 14, 1965. We also joined in testimony presented by a number of Jewish organizations before the Subcommittee of the Judiciary Committee of the House of Representatives on June 24, 1965.

As a general matter, we believe that equality of voter representation is a fundamental principle of the American democratic system. We perceive the right to vote as essentially a right of individuals. Legislatures represent people as citizens; they do not represent particular interest groups. It is therefore immaterial to us whether any particular proposed amendment to the Constitution on the question of malapportionment contains procedural devices, such as initiative or referendum, or whether the apportionment of only one house of the legislature is permitted on some so-called reasonable basis other than population.

Senator DIRKSEN has introduced a new version of his proposed constitutional amendment on the question of malapportionment. Since public attention is already focused on this particular proposal, we think it appropriate to expand our earlier remarks, with specific reference to Senate Joint Resolution 103.

Senator DIRKSEN's revised resolution attempts to answer a number of specific criticisms made of earlier proposals, and particularly the criticism that apportionment based on race or religion would be possible under his proposal. While one house of a bicameral legislature would be apportioned strictly on the basis of population under Senate Joint Resolution 103, the other could be apportioned on the basis of "population, geography, and political subdivision" in order to "insure effective representation in the State's legislature of the various groups and interests making up the electorate." It is true that under this formulation, apportionment patently based on such unreasonable and discriminatory factors as race, religion or sex would not be permitted. However, a plan apparently based on geography or political subdivisions could be used to mask deliberately discriminatory reapportionment plans. Further, we do not believe that one citizen's vote should be weighted more heavily than that of another citizen, depending on whether he lives in a city or village, county or town.

We are unsure of the meaning of the phrase "effective representation" and we reject the concept that groups and interests comprise the electorate. The electorate is comprised of individuals. It would be a distortion of our traditional understanding of democratic practice to suggest that a specific interest group was entitled per se to representation in a State's legislature. We believe that the only truly effective representation is that based on the principle of one man, one vote.

We also note that the resolution is far from satisfactory in other respects. Its second section provides for a popular vote on any given apportionment plan and provides that there must be submitted an alternative plan based solely on substantial equality of population. It is not farfetched to suggest that an alternative plan based on population might be phrased in such an unacceptable manner that the electorate of the State would in effect be forced to vote for an apportionment plan based on factors other than population. For example, the submitted proposal might call exclusively for the election of representatives at large, or might limit the membership of a legislative body to 6 or 10 representatives or might be based upon grossly gerrymandered districts.

The new Dirksen amendment suffers from the same fundamental vice that tainted the earlier version: namely, that any system of apportionment based on factors other than population runs contrary to fundamental democratic principles. We do not believe that basic rights may be suspended by referendum and we do not believe that a State can proprely grant one class of citizens a greater say in their government than another class. For these reasons, we oppose the Dirksen amendment.

AMERICANS FOR DEMOCRATIC ACTION,
Washington, D.C., September 7, 1965.

Hon. JOSEPH D. TYDINGS,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: In reply to your letter of August 25, requesting the views of Americans for Democratic Action on Senate Joint Resolution 103, ADA's position is one of firm opposition to any amendment that reverses or modifies the Supreme Court's fair

apportionment decisions. Senate Joint Resolution 103 is another effort to return State government to the horse and buggy era. If enacted Senate Joint Resolution 103 will forever bury State government.

ADA supports the Supreme Court position enunciated in *Reynolds* v. *Sims* and companion cases on June 15, 1964. We firmly believe that the Supreme Court correctly interpreted the equal protection clause of the 14th amendment when it "requires that the seats in both houses of a bicameral State legislature must be apportioned on a population basis." The Court's ruling in the Reynolds case logically extended the one man-one vote concept that it was developing in earlier cases—*Baker* v. *Carr*, *Gray* v. *Sanders*, *and Wesberry* v. *Sanders*. Reynolds and the companion cases completed the process toward equality.

ADA believes that Senate Joint Resolution 103 undermines the right to vote. The very concept of a constitutional amendment reversing Reynolds is repugnant.

VOTING RIGHTS ARE INDIVIDUAL RIGHTS

Rights of citizenship cannot be abridged by a referendum. Voting rights are individual rights. The existence, guarantee, and protection of these rights do not depend on the outcome of any referendum. The Dirksen proposal still represents the first serious attempt to reverse American history. Ours has been a history of expanding rights and expanding liberties. That is the American dream and it is being constantly fulfilled. The whole history of the 14th amendment, in which the Supreme Court based its State apportionment decisions, has been to expand the concept of equal protection of the laws. The rights guaranteed by the Constitution, and the equal protection clause are fundamental rights which may not be subjected to a vote.

USE OF THE REFERENDUM

Since the revised Dirksen amendment uses the referendum, we believe that how the referendum works in practice should be thoroughly explored. The referendum is more likely than not to sharply divide the electorate and result in unnecessarily deep political and social divisions. Important questions such as fair housing, the right to vote, and the composition of State legislatures are best solved through our existing political institutions and the legislative process rather than through the referendum.

The referendum is not a magic guarantor of the democratic process. Often many questions appear on a ballot. The long ballot is the rule rather than the exception. A referendum is likely to occur during the course of a statewide or national election. Issues become confused. Senator DOUGLAS in his speech of August 12 went to the heart of the referendums issue:

"The experience of the States in this country which have used the referendums shows that public participation in them is so low that they cannot be construed as satisfactory indications of real population will. The available evidence on participation in referendums show that even in general elections the decision in referendums is made on the average by less than 30 percent of the voting age population of the State."

REFERENDUMS ARE CONFUSING

The requirement in Senate Joint Resolution 103 that an apportionment plan based on equal population districts be submitted along with a population plan that allows for one house to be malapportioned is deceptive and confusing. In *Lucas* v. *Colorado*, decided by the Supreme Court, a majority of the population voted to apportion one of their houses on factors other than population. The Court held that malapportionment by referendum is unconstitutional since it violates the right of the individual to cast his vote as an equal and have that vote counted.

An important aspect of the Lucas case is the insight it provides when two choices are presented to the voters—even if one plan is based on equal population districts. The rejected amendment prescribed an apportionment plan which based apportionment on population, but the choice presented to the electorate was unclear. The apportionment plan, based on population, continued what many Colorado citizens believed to be an undesirable feature in the Colorado State government: those counties that have more than one seat in either or both houses had to elect all their legislators at large from the county as a whole. Under Senate Joint Resolution 103 identical or similar situations would still pertain.

Another confusion in referendums is that the questions posed to the electorate often blur and misstate the real issues involved. Such misstatement is best illustrated by the California proposition 14 which by its adoption prohibited enactment of State and local fair housing laws. In the name of an "individual right" to build huge developments or rent large multifamily dwellings units California guaranteed that racial discrimination in housing will remain legal under California State law.

INTEREST GROUP REPRESENTATION ALIEN TO AMERICAN TRADITION

We believe that the use of a referendum in a constitutional amendment to the U.S. Constitution is a radical departure in American constitutional practice. The requirement of Senate Joint Resolution 103 that it "insure effective representation in a State's legislature of the various groups and interests making up the electorate" is alien to the American tradition. Voting rights are individual rights. They are not group rights or interest group rights. How an interest group can be defined is beyond our imagination. Do interest groups include ethnic and religious and racial groups? If so, we suggest that this amendment modifies not only the 14th amendment but the 1st amendment guarantees against establishment of a religion. Would all Protestant groups be lumped together or will we separate Seventh-day Adventists from Unitarians? How do we differ between orthodox and reformed Jews? Do we include migrant workers as an interest group? Do we include the unemployed? Do we include those representing the one-quarter of our population living in poverty composed of family units where the wage earners are employed but at substandard wage levels, grossly insufficient to support even a marginal level of decency and comfort?

Thus ADA would be opposed to the Dirksen amendment simply because it modifies individual rights and makes group interests the standard for the basis of represenation.

OPPONENTS OF FAIR REPRESENTATION MISSTATE SUPREME COURT DECISION

Even if the group interest requirement were eliminated, ADA would oppose the amendment. We believe that the opponents of the Supreme Court decision have fostered misunderstanding of that decision. The opponents have consistently stated that the mathematical rigidity required by the Supreme Court is the sole criterion for representation in State legislatures. It is essential that the Supreme Court's holding in these cases be put in proper perspective.

A careful reading of the Supreme Court decisions suggests that mathematical equality is not what the Supreme Court intended or required. The Court stated that "We hold that, as a basic constitutional standard, the equal protection clause requires that the seats in both houses of a bicameral State legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for State legislatures is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes with citizens living in other parts of the State." In another portion of the opinion the Supreme Court specifically stated, "mathematical nicety is not a constitutional requisite." In a later portion of the opinion the Court states, "we realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents or citizens or voters. Mathematical exactness or precision is hardly a workable constitutional requirement."

The evidence is abundantly clear through the *Reynolds* v. *Sims* case that mathematical preciseness is not the basic criterion for representation of State legislatures.

In *Wesberry* v. *Sanders* the Court stated that congressional representation must be on population as nearly as practicable. In the *Reynolds* v. *Sims* case the Court enunciates distinctions that must be made in the definition of equality of population among districts between congressional and State legislative representation. The Court recognizes that there is a larger number of seats in State legislative bodies than there are congresional seats. Therefore the Court concludes that it is perfectly feasible to use political subdivision lines to a "greater extent in establishing State legislative districts and in congressional districts while still affording adequate representation to all parts of the States. To do so would be constitutionally valid, so long as the resulting apportionment was one based substantially on population and the equal population principle was not diluted in any significant way."

Another distinction looked upon approvingly by the Supreme Court is the desire "to maintain the integrity of various political subdivisions, insofar as possible, and provide for compact districts of continuous territory in designing a legislative apportionment scheme." The Court, composed of men who understand politics, recognized that districting with no regard for political subdivision or historical boundary lines or natural lines—such as rivers—may be in reality a ruse for partisan gerrymandering. The purpose of *Reynolds* v. *Sims* is to assure that fair apportionment exists in State legislatures and not to allow the use of population as a criterion for partisan gerrymandering.

Another distinction looked upon favorably by the Court is that fair apportionment may be achieved by single member districts or multimember districts. The means available to the State for fair apportionment are multiple. The only overriding objective must be equality of population among the various districts so that the vote of any citizen "is approximately equal in weight to that of any other citizen in the State."

The Constitution now provides for representation based on substantially equal population districts and guarantees individual citizens the right to vote and to have that vote counted. This principle, the cornerstone of democracy, must remain unchanged.

Sincerely yours,

LEON SHULL,
National Director.

THE WASHINGTON ETHICAL SOCIETY,
Washington, D.C., September 7, 1965.

Hon. JOSEPH D. TYDINGS,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Upon my return from a trip abroad I find your letter of August 25 regarding Senator DIRKSEN's revised text for a constitutional amendment on the apportionment of State legislatures. Although I have not yet had the opportunity to bring this revised form to the attention of the executive committee of the American Ethical Union, I am of the opinion that our earlier objections to the so-called Dirksen amendment have not been met by Senator DIRKSEN's recent modification.

Our objection goes to the heart of the issue and the principle of an equal vote for all citizens. We hold this to be of the essence of democracy, central to the integrity and force of the democratic ethic. I shall report this latest development to our national body for possible further action. Meanwhile, I am sending to you a copy of my testimony of last June 25 to the House subcommittee. This statement sets forth our position in greater detail than did my earlier communication to your Senate committee and I call these arguments in full to your attention now. I believe that you will agree that these objections are equally relevant to Senator DIRKSEN'S present proposal.

Sincerely,

EDWARD L. ERICSON,
American Ethical Union Public Affairs Representative in Washington.

Senator JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.:

This will reaffirm the NAACP's opposition to Senate Joint Resolution 103, the Dirksen reapportionment amendment. We believe that the Supreme Court decision establishing the principle of "one man, one vote" will correct grave abuse of power in States where the senators and representatives from thinly populated areas prevent passage of laws that would benefit the vast majority of the States' population. The Dirksen proposal would be a threat to progress in the field of civil rights. We shall continue to work for its defeat.

CLARENCE MITCHELL,
Director, Washington Bureau NAACP.

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., August 30, 1965.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter of August 25, and for your kindness in sending me a copy of Senator DIRKSEN'S latest proposal for a constitutional amendment, and the extracts from the CONGRESSIONAL RECORD relating to this matter.

I have read all of these items with much interest.

1. I am opposed to the new amendment. I know of no reason why we should perpetuate "rotten boroughs" in this country, or of why one region in a State is entitled to more representation than another.

2. The changes made in Senator DIRKSEN'S most recent proposal do show the soundness of the criticisms which were made of his earlier proposal. However, in my view, they are not adequate to make the new proposal sound or desirable. The fact remains that in the United States in this last third of the 20th century we should believe in equal democracy.

The decisions of the Supreme Court have freed us from an intolerable situation into which we have drifted, and from which there was no feasible means of escape except through the decisions of the Court. Having achieved the results we now have, it does not seem to me that we should take any steps backward toward the old situation.

3. The criticisms of the revised version have been very excellently made in your address to the Senate on August 18, 1965. I would not have anything to add to that, and would like to express my great appreciation to you for your careful analysis and effective statement.

I hope that you will continue to oppose this newest effort of Senator DIRKSEN to give some people a more effective voice in government than other people have. Whether it is put in terms of "geography and political subdivisions" or in terms of "various groups and interests," inequality is still inequality. Having at long last achieved the principle of "one man, one vote," I hope that we will stick to it, and be proud and glad that we have such a fairly organized democracy.

With best wishes,

Very truly yours,

ERWIN N. GRISWOLD,
Dean.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, N.Y., September 15, 1965.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR TYDINGS: This is written in response to your inquiry about Senate Joint Resolution 103 introduced by Senator DIRKSEN on August 11, 1965. This resolution is a modified version of his original proposal, which was rejected by the Senate, to permit the apportionment of one house of State legislatures without regard to the equal-population principle.

My answers to your three questions are as follows:

1. I am indeed opposed to the current version as I was to the original version. The same basic objection continues; namely, that the proposal is antidemocratic and contrary to the majoritarian principles of our government.

2. The changes Senator DIRKSEN has proposed do not meet my objections. He has attempted to satisfy some of the criticisms of the earlier proposal by providing (a) that any nonpopulation-based apportionment of a bicameral legislature must be agreed to by both houses, one of which itself must satisfy the equal-population standards; (b) that any such reapportionment plan presented to the voters must include as one alternative an opportunity to vote for a population-based legislature. However, these changes do not overcome the basic objection to malapportionment to which the Supreme Court opinions in the reapportionment case were addressed. This is the notion that in a democratic society separate representation should not be accorded the various special-interest groups. The right of franchise should include recognition that each individual's vote, wherever exercised, must be available to him on the same basis as to all other individuals. That is, each individual is entitled to an equal voice in the selection of representatives in any body which is an integral part of the legislative process. It simply will not do to say that apportionment of one house in terms of population provides a sufficient check upon another house apportioned on the basis of geography, political subdivisions, or interest groups. It is important to remember that the nonpopulation-based house can itself exercise a veto over the wishes of the majority as expressed in the house which satisfies the equal-population principle. That, of course, is exactly what the sponsors of this amendment intend, and it is important that this objective be defeated.

3. The current proposal is subject to some criticism in ways that were not applicable to the earlier version. There was, it must be admitted, a certain integrity about the directness of the language in the original version. It was perfectly clear that the aim was to overturn in part the Supreme Court ruling in the reapportionment cases and to limit the application of the equal protection clause of the 14th amendment in matters of franchise. While I think it is fair to assume that that objective has not been changed, the language has become so obscure—almost inarticulate—that the unwary may be deluded into believing that this is in fact a democratic proposal. However, it is not clear under the new version what would be the scope of judicial review (if judicial review of such legislative action is contemplated at all). The difficulties which the courts would face in determining what is effective representation in the State's legislature of the various groups and interests making up the electorate are well-nigh insuperable. This is illustrated by the fact that Justices Clark and Stewart, from whose opinions comes the notion of effective representation, proved unable to agree even between themselves as to the meaning of the term. Although they appeared to be in substantial agreement when the six original reapportionment cases were decided on June 15, 1964, they were unable to agree on the proper disposition of four of the nine cases decided 1 week later, on June 22, 1964.

Finally, the idea of representation of interest groups is fundamentally alien to the American democratic tradition.

The idea seems to be that a person, because he is a banker or a farmer, a Catholic or Protestant, a Negro or a white person, a union member or a small shopowner, should somehow be given separate representation for those theoretically separately identifiable interests. Even if this antidemocratic notion could be accepted—and I believe it should not—the practical difficulties in its administration are overwhelming. No man belongs in this sense to a single interest group. Experience demonstrates that the political process is not refined and subtle enough to recognize individual interest groups. Therefore, it seems wholly desirable—indeed essential—to return to the proposition originally accepted in three-fourths of the States that representation should be, as nearly as may be, in proportion to population.

Sincerely,

ROBERT B. MCKAY.

ITHACA, N.Y.,
September 5, 1965.

DEAR SENATOR TYDINGS: Thank you very much indeed for your letter of August 25, along with the copies of your and Senator DOUGLAS' speeches on the apportionment question. In answer to your inquiries on Resolution 103, I can say very simply: (1) I am opopsed to this new proposed amendment; (2) the changes that Senator DIRKSEN has proposed do not meet my earlier criticisms; and (3) I do have some comments on the revised amendment, and they are as follows:

First, let me congratulate you on your masterful handling on the entire referendum question. This is an extremely difficult matter to handle. For the Dirksen argument is that if a majority of voters in a State want to have a malapportioned legislature, then they should be permitted to have what they want. One can tackle this on two levels. One might say that the approving majority has been misled: by propaganda and by a misinterpretation of what are their own self-interests. (You also pointed out, and very well, that the referendums options can be stacked against the "population" alternative.) But one can, in addition, focus on those among the referendum voters who do not want to be underrepresented and yet who must suffer this condition because they are outvoted. This group not only has its right to a whole vote abridged, but the abridgement is the result of a popular ballot. We are going to have to face, more and more, referendums that threaten the civil rights of minorities. I am thinking, of course, of the rejection or repeal of open housing in such places as Tacoma, Seattle, Detroit, Akron, and the State of California. Your arguments on the Dirksen proposal may set the stage for future debates.

Second, whether or not the Dirksen resolution smacks of Mussolini, it is also a stacked deck with its emphasis on the "representation of groups and interests." The notion is that there exist certain "interests" which deserve representatives regardless of

the number of people such an interest may contain. There is, in a word, a real class bias here. For such interests as the poor or Negroes or even city dwellers are invariably put in one large group. In contrast the middle class is usually cut and sliced into literally dozens of groups: architects, apple-growers, accountants, advertisers, etc. Under such a tendency the middle class—and especially businessmen—get far more representation. (Part of this, of course, stems from the fact that we tend to overlook the varieties of "groups and interests" among the poor, the Negroes, and city dwellers. It takes a certain sensitivity to distinguish among the varied sorts and conditions of, say, Negroes. Needless to say, most of us tend to be rather stereotyped in our image of those at the bottom of the heap.)

Finally, when is someone going to point out that rural counties have their quota of party bosses and bloc voting?

Good luck.

ANDREW HACKER.

UNIVERSITY OF CALIFORNIA,
SANTA BARBARA,
Santa Barbara, Calif., September 6, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: I appreciate your kind words about my statement before the Constitutional Amendments Subcommittee on the original Dirksen amendment and your request for my reactions to the newest version. First, I would specifically answer your three questions as follows:

1. I am opposed to the new amendment.

2. The changes Senator DIRKSEN has proposed do not meet my earlier criticisms; in fact, I feel that on balance, the new version is worse than the one which failed of passage on August 4.

3. I have several criticisms of the revised amendment which I did not take up in my brief comments on the earlier version.

Since my present statement is lengthier than my earlier one, I am enclosing it separately in the hope that it will be a more useful form for your purposes. I am also appending a few ideas for use in Senate debate.

I also want to thank you for sending me the text of the new version of Senator DIRKSEN's amendment and the statements made about it on the floor of the Senate. I thought that your impromptu analysis of the new proposal's provisions was an incisive and penetrating job. You have obviously given the whole question much thought and have an excellent command of the subject. I feel confident that the caliber of the arguments which you, Senator DOUGLAS, and others have made, presage another defeat for Senator DIRKSEN if and when his new proposal comes to a vote.

Again, my thanks for your interest in my views.

Sincerely yours,
GORDON E. BAKER,
Professor of Political Science,
Chairman of the Department.

REACTIONS TO THE NEW DIRKSEN AMENDMENT

When Senator DIRKSEN first announced that he would introduce another constitutional amendment on State legislative apportionment after his earlier effort failed of passage, I assumed that he would attempt to gain support for it by removing some of the more unpalatable features of the original, or by adding features which would attract votes. To my surprise, the second proposed amendment (S.J. Res. 103) is no real improvement over the original, and opens up new questions.

The apparent attempts at improvement simply add new imponderables and complexities. One of these changes relates to the ratification process, by requiring that if three-fourths of State legislatures should ratify the proposed amendment, that "each such legislature shall include one house apportioned on the basis of substantial equality of population." This supposedly would make it more difficult for a "rotten borough" legislature to draw up the plan of apportionment, since there would be a potential check of one house based on population. But problems remain: Who is to determine whether one house is actually apportioned on the basis of "substantial equality of population"? Possibly the courts could so determine, but the actual ratification process could become enmeshed with a considerable amount of litigation. Moreover, the check of one equally apportioned house may be illusory. One malapportioned house could still have a strong bargaining position through the fact that it has to pass on all other legislation passed by the other (the logrolling question), not to mention the tradition in many States that each house defers to the other on matters affecting its composition. Legislatures are relatively small groups in which loyalty to the institution is understandably strong. But even apart from this, I feel that the wording of this section is ambiguous or unclear. It says "each such legislature shall include one house apportioned on the basis of substantial equality of population." Does this mean at least one house, or only one house? I suppose the intent was "at least" and that it would not preclude States in which both houses are based on population (there are now many such States, and there were even some prior to *Baker* v. *Carr*). But this is not clear from the wording, which might suggest that only one house should be so apportioned. I suspect the problem in phraseology here as elsewhere, is due to Nebraska's unicameral legislature, and the resulting problem of devising an amendment which applies to all States but which tries to differentiate between houses of bicameral legislatures. In short, the ratification provision is so fraught with problems that it would be much simpler and certainly more democratic to provide for ratification by conventions rather than by legislators who are parties judging their own case. The convention method would allow the equivalent of a referendum in each State on such a constitutional amendment, since delegations could be elected at large on a pro versus con basis (as was done in the case of the 21st amendment). After all, constitutional amendments are supposed to represent the popular will, and a substantially greater one than for ordinary legislation.

Many of my objections to the provisions of the ratification process also apply to that part of section 2 calling for submission of any apportionment plan by "both houses, one of which shall be apportioned on the basis of substantial equality of population." Again, my queries above, including the question: only one house, or at least one house? There are various other objections to section 2, which attempts to allow for voting on an alternative plan of apportionment based solely on substantial equality of population. It adds: "The plan of apportionment approved by a majority of those voting on that issue shall be promptly placed in effect." What if two (or more) plans should obtain a majority? Would the effective one then be the one with the highest total vote, highest proportionate vote, or what? Again, a potential source of endless and confused litigation.

There are numerous other objections. I am puzzled, for example, at the reasons for section 1 including references to allowing one house to be based on population, geography, and political subdivisions "in order to insure effective representation * * * of the various groups and interests making up the electorate." And then a slightly different wording on unicameral legislatures, which suggests vaguely a more equal population standard than the malapportioned house of a bicameral legislature, but which mentions giving nonpopulation factors "such weight * * * as will insure effective representation * * * of the various groups and interests making up the electorate." What is the purpose of such phraseology? Is it to allow courts standards for testing apportionment provisos? This seem doubtful, for they are surely vague standards. Moreover, this kind of phraseology loads the case. Thus the amendment tells the States that they (or rather their legislatures) are free to initiate whatever apportionment plan they want, but then goes on to lecture them as to what factors should be considered in one house for effective representation of the various groups and interests in the States. Quite apart from other objections to the Dirksen amendment, surely such prejudicial phraseology has no proper place in the U.S. Constitution.

Indeed, the more Senator DIRKSEN and his collaborators attempt to provide the kind of detail they either want to see or feel is necessary, the more complex the amendment becomes and the more problems it poses. Every attempt, however well meaning, to take care of this or that objection by adding or changing provisions merely magnifies and multiplies the unanswered questions that are raised. Chief Justice John Marshall once explained the nature of written constitutions in words that can well apply to amendments. He said: "A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. * * * In considering this question, then, we must never forget, that it is a constitution we are expounding." Most constitutional amendments have, happily, followed a pattern of classic simplicity. The proposed Dirksen amendment more closely resembles a code of laws, and the more it is changed with details and phraseology, the more questions arise as to its proper interpretation.

Those who feel that a strict standard of equality is too rigid to allow for the expression of proper community interests in a State, should recognize that the apportionment decisions of the Supreme Court in 1964 already allow for flexibility to meet certain local considerations, so long as the result is not a substantial distortion of statewide representative equality. Chief Justice Warren expressed the Court's view as follows: "A State may legitimately desire to maintain the integrity of various political subdivisions, insofar as possible. * * * So long as the divergences from a strict population standard are based on legitimate consideration incident to the effectuation of a rational State policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral State legislature." It seems to me far preferable to apply this reasonable approach where needed than to amend the Constitution of the United States with a hastily drawn and redrawn amendment that is neither properly understood nor understandable.

Dr. GORDON E. BAKER,
Professor of Political Science, University of California, Santa Barbara.

UNIVERSITY OF PENNSYLVANIA,
Philadelphia, September 13, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR TYDINGS: I am sorry that I was not available to give you a timely re-

sponse to your letter of August 25, 1965. I did not return from vacation until September 7.

Now that the revised Dirksen proposal has been reported out by the Senate Judiciary Committee, we shall have to be thinking in terms of consideration by the Senate when it reconvenes after the turn of the year.

I agree with you that the revised version is open to serious objection and I should like to do anything I can to assist you in bringing about negative action upon it.

Cordially,

JEFFERSON B. FORDHAM.

UNIVERSITY OF UTAH,
Salt Lake City, Utah, September 27, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senator, U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for forwarding a copy of the latest reapportionment proposal, Senate Joint Resolution 103. While the resolution concedes some ground to several of the objections raised during the hearings and Senate debate, I find the resolution objectionable upon general policy grounds and on several specific grounds of careless drafting and internal ambiguity.

In general, the resolution suffers under the same disabilities as previous proposals in this area. First, it would result in the further destruction of the very thing its proponents seek to preserve—viable State government. A fundamental factor, perhaps of greater historical importance than the objection that a constitutional amendment preserving rotten boroughs deprives citizens of their fundamental right to equality of representation in government, is the impact of this proposal upon the institution of federalism. All recognized scholars in the field of political science and government that I am familiar with agree that a primary cause for the shift of governmental power in this country to the Federal Government has been the failure of State government to fulfill its responsibilities. Research indicates that State failure has resulted from unresponsive State legislatures and outmoded State governmental structures. The former may only be cured by complete reapportionment upon a basis responsive to the will and aspirations of the people and the latter may only be corrected by State constitutional revision. The two are intertwined, but reapportionment is the key because State constitutional revision can only be initiated by both houses of a State legislature. Malapportioned State legislatures, in which either house, or both houses, are malapportioned, have been singularly unwilling to take any initiative in revising and updating antiquated State government.

Senate Joint Resolution 103 preserves State legislatures unwilling to initiate constitutional reform, since it gives a veto power to one house of a bicameral legislature. I have witnessed the effect of such a system in Massachusetts and Michigan where one malapportioned branch of a State legislature has frustrated majority will several times in the past. Experience can only lead to the conclusion that Senate Joint Resolution 103 will continue frustated State government. The net result of unwilling and unable State government will be the continuation of the trend toward centralized Federal control of matters which have heretofore been State responsibilities. Urban affairs, civil rights, economic regulations, and a host of other pressing fields have all become matters for Federal action because of State inability to act. Senate Joint Resolution 103, proposed in the sincere belief that State government must be protected and strengthened, can only accelerate the trend toward increasing Federal power and decreasing State power.

A second general criticism of Senate Joint Resolution 103 is its vagueness and internal confusion. It is not clear whether section 1, lines 9–13 deprives the courts of almost all judicial review over State representational schemes. The language vests exclusive control ("the people * * * shall) of reapportionment in the majority of those voting at an election on the reapportionment proposal. Judicial review is limited to the questions of whether there has been an election and whether the voters were offered the alternative choice required by section 2 of the resolution. Consequently, racial, religious, and other minority groups may be completely excluded from representation in one house of a State legislature by a simple majority vote on a proposed plan at a general election. The insidious immorality of racial discrimination in representation in government may be preserved immune from judicial review and the extension of the franchise to millions of heretofore deprived voters by recent congressional legislation will be undermined. Since Senate Joint Resolution 103 allows a majority of voters to select a plan based upon "population geography, or political subdivisions" it is not difficult to imagine how a State may use this formula to reverse recent civil rights legislation and Supreme Court decisions extending the franchise to millions of voters.

I also have several more specific objections to Senate Joint Resolution 103 based upon the poor draftsmanship of the resolution. The use of the word "article" in line 8 and line 13 on page 2 will create confusion since the first six major portions of the Constitution are designated "article" and none of the amendments use this form. Consequently, lines 9 and 13 on page 2 are ambiguous. Do they refer to article 1, section 2 of the Constitution or the proposed amendment? If the former, this language will render invalid several State constitutional and statutory provisions requiring reapportionment more often or at different times than the Federal Decennial Census. For example, the Utah constitution requires a census and reapportionment every fifth year. In effect, the proponents of Senate Joint Resolution 103 will be intruding further into State affairs by rendering unconstitutional the provisions of many State constitutions and election laws.

Lines 1 to 6 of page 3, particularly the language "a statewide election held in accordance with law and the provisions of this Constitution," is perhaps the most drastic interference with State power since the Civil War amendments to the Constitution. Not only is the language excessively vague (what "law" and which "provisions" of "this Constitution"), but it makes the provisions of "law" and "this Constitution" the exclusive standards governing such a vote. If Congress is to approve this constitutional amendment for submission to the States, the impact of this provision also warrants long and careful study to determine its effect upon State election laws.

The proviso to the preamble (lines 4–7, page 2) raises serious constitutional questions regarding the constitutionality of the proposed resolution. On the one hand it is highly doubtful whether anything less than a legislature with both houses reapportioned can act upon the proposal since the Reynolds and Lucas decisions. The Supreme Court has said that both houses of a State legislature must be apportioned substantially on a one-man, one-vote basis in order to comply with the 14th amendment. Consequently, a legislature elected on any other basis is not validly constituted and its acts are null and void; therefore, approval in the manner called for by the preamble to Senate Joint Resolution 103 would be invalid. If, on the other hand, this method of approval is valid in light of Reynolds and Lucas, there is a good question as to whether it complies with article V of the Constitution. It is axiomatic that amendments to the Constitution may only be proposed and adopted in accordance with article V of the Constitution. The insertion of the condition in the proviso to the preamble of Senate Joint Resolution 103 includes a condition on the approval of the proposed amendment that is not found in article V, unless Reynolds and Lucas should be interpreted as including a condition that both houses of legislatures approving a proposed constitutional amendment must be equally apportioned in order to validly approve a constitutional amendment. The only fact that is certain is that the proviso in its present form is an unconstitutional method of amending the Constitution since it does not comply with the equal protection clause as interpreted in Reynolds and it does not comply with the amending process set out in article V.

Lines 17 and 18 on page 3 of the resolution invalidate the requirements of some States that an apportionment plan be approved by a majority of the electorate rather than a simple majority of those voting on the proposal. It is a well-known phenomenon of elections that not all eligible voters vote and that many, if not a majority, of those who do vote do not vote upon referendum issues. Lines 17 and 18 on page 3, therefore, enhance the prospects of minority control since less than a majority of registered voters and less than a majority of those voting at a particular election are empowered to impose a malapportioned house of a legislature upon a State. This is clearly not a case of letting the majority decide since that vast group of citizens who do not vote or who do not vote upon the apportionment plans because they do not understand the proposal facilitate the imposition of a well organized minority's will upon the majority. At the very least, lines 17 and 18 on page 3 should be changed to require approval by a majority of eligible voters, registered voters, or those voting at the election rather than merely those voting on the apportionment proposal. Otherwise, the oft repeated cry of "let the people decide" is a thinly veiled sham to any realistic student of American voting habits.

Another objection I have to the resolution is that it does not provide any remedy for simple legislative inactions. In effect, Senate Joint Resolution 103 proposes what so many State constitutions have required for years. *Baker* v. *Carr* involved a comparable provision of the Tennessee constitution which was ignored for over 50 years. There is no provision in Senate Joint Resolution 103 to account for a situation in which a legislature refuses or is unable to agree on a plan to submit to the voters. The impact of the proposal upon judicial review of apportionment makes impossible judicial intervention since the proposal makes mandatory and exclusive one constitutional process for State legislative apportionment. This serious defect, if the proposal is to be approved at all, might be remedied by a provision similar to that found in the model State constitution whereby legislative failure to act on reapportionment within a specific period of time divests the legislature of this authority and vests it elsewhere subject to judicial review.

Senate Joint Resolution 103 is a compendium of vagueness and ambiguity. For example, what is meant by "various groups and interests making up the electorate?" It is undeniable that religious, racial, and ethnic groups are "interests making up the electorate," but it is distasteful and contrary to our entire history to base political representation upon these grounds. Indeed, a serious question of 1st and 14th amendment rights is involved when a State singles out a particular religion or race for separate representational treatment. In fact, this language clearly modifies the 1st and 14th amendments since a State could exclude or include racial or religious "interests" simply by carving out political or geographical subdivisions for use in representational schemes.

Racial and religious interests are just as important, and in many cases more important, than economic interests. Yet no justification can be given for choosing economic interests over religious, racial, or cultural interests if the vague and ambiguous word "interest" is given its normal meaning. The only common interest each of our citizens have is their interest to be represented equally in their government. Recognition of any other interest as a basis of apportionment is either inherently irrational, fundamentally immoral, or essentially contrary to the great promise of democracy and equality which has been the keystone of our American heritage.

It is my hope that Senate Joint Resolution 103 will be carefully weighed in an atmosphere of nonpartisan debate, free of emotional commitments to some of the myriad of interest groups affected. It has been my impression that the reapportionment debates have not yet reached that level of detached, concerned and probing debate deserving of a proposal to amend our basic law. Cliches like "why not let the people decide" ignore and abdicate the responsibility placed upon Congress by article V of the Constitution to weigh heavily any constitutional amendments before submitting them to the people. It is axiomatic that a fundamental basis of any system of constitutional government is a difficult amending process designed to achieve the optimum of considered deliberation before submitting a proposed amendment to popular vote or State ratification. Congressional submission of a proposed amendment is, in effect, a recommendation in favor of the proposal, not an opportunity to "pass the buck." A difficult amending process in a system of constitutional government assures a maximum of protection for individual rights by insulating those rights from deprivation by popular vote.

Fright peddlers who predict the inundation of minority economic interests by the shabby bogeyman of city bossism not only impugn the motives of a majority of our citizens, ignore the demise of bad city government and raise serious innuendoes against overwhelming evidence to the contrary, but lose sight of that which they seek to preserve also. The bulk of a modern State's problems and responsibilities have followed the people to the urban centers of our Nation, yet most State governments have not been attuned to the problems of our cities because legislators have not represented urban areas. In their fear to protect old and familiar political interest groups in State government, the proponents of Senate Joint Resolution 103 have suggested a measure which can only assure a continuation of the drift toward ineffective and, ultimately, nonexistent State government.

For these reasons, it is my recommendation that Senate Joint Resolution 103 not be approved by Congress for submission to the States for ratification. If it is to be so approved, Congress should at least know what it is doing. It is my understanding that the proposal will not be submitted to investigation and assessment by the normal procedure of committee hearings. Yet public hearings are necessary to assess the impact of Senate Joint Resolution 103 upon the institution of federalism, the movement toward State constitutional reform, the rights of Negroes and other minority groups, and the effect of the vague and ambiguous language of the present draft upon the Federal Constitution and State laws and constitutional provisions concerning apportionment and election procedures.

Lastly, careful consideration is necessary to assess the effect of Senate Joint Resolution 103 upon judicial review of State reapportionment schemes. We have long prided ourselves upon being a Nation which lives under the rule of law. Our entire history has been measured by the expansion of the rule of law and by limiting the rule of men. The measure of this march toward a maximum of individual liberty in an organized society has been the expansion of judicial review to prevent the denial of due process and equal protection of the law. Senate Joint Resolution 103, with its severe restrictions upon judicial review, is the first step backward in the long evolution of this American ideal.

Sincerely,

JOHN J. FLYNN,
Professor of Law.

INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL–CIO,
New York, N.Y., September 7, 1965.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter of August 25 and your kind comments about my statement.

I am strongly opposed to the new version of Senator DIRKSEN'S amendment because, despite the apparent concessions, its basic purpose obviously remains the same as that of its predecessor: a halting of the changes set in motion in our governmental structure by the Supreme Court's apportionment decisions.

I have read the statements which you and Senator DOUGLAS made on the Senate floor with regard to the new proposal, and I would like to identify myself with the views expressed by both of you.

No matter how the various elements which make up the Dirksen proposal are shuffled and reshuffled, the essential fact remains that they would, if adopted, constitute constitutional sanction for minority control—for artificial inflation of the political power of a favored minority to the point where it possesses the power of a majority in at least one house of a State legislature. Such a situation is undemocratic per se, regardless of the political means by which it may be brought about. History provides numerous examples of highly undemocratic governments which evolved through democratic processes. The Nazi regime in Germany, to cite but one case, came to power initially by utilizing the highly democratic political machinery of the Weimar Republic. But this did not, of course, make the Nazi regime itself democratic. Similarly, an unrepresentative legislative body, even though it be established by direct mandate of the people, is not automatically democratic. It must stand or fall on its own merits—not on the basis of its origins. (I might add that history also reveals many cases when democratic institutions—and sometimes democracy itself—were wiped out in rash moments by a plebiscite.)

As Senator DOUGLAS has pointed out, the Dirksen amendment, in each of its several incarnations, represents, ironically, an attempt to shackle the principle of majority rule by invocation of the slogans of majority rule. Paradoxically, the amendment would actually sanction "the tyranny of the majority," for it would permit a majority of a State's voters to increase the political power of some citizens and to decrease the political power of others.

There appears to be a widespread notion—held by some people on both sides of the fight over the Dirksen amendment—that once a legislature has been reapportioned on an equal-population basis, it is inconceivable that it would take any action that might result in reversion to an unequal-population basis. I believe this is an erroneous assumption. It is quite conceivable, for example, that in a State where the electoral strength of the two political parties is quite close, a party which in the past has held perpetual legislative control because of unequal district populations, could achieve a majority in an election held on a one-man, one-vote basis. Such a majority might then very well attempt to restore a non-population-based apportionment in order to insure its continuation in power. Unless such apportionments are themselves prohibited, there will always be a danger that a temporary majority might try to transform itself into a permanent majority by manipulation of the apportionment system.

In your Senate speech of August 18, you touched on what I believe is a particularly critical point: the distinction between a minority which is geographically concentrated and one which is geographically dispersed. Despite Senator DIRKSEN'S references to the protection of minority interests, there appears to be nothing in his proposal which could provide a legislative seat for a minority which was so scattered that it did not comprise the majority in at least one district. The amendment can benefit—indeed, is clearly intended only to benefit—one kind of minority: the rural minority, which is so distributed geographically, as to comprise the majority in many parts of many States. But I would go one step further. I would say that the basic purpose underlying the Dirksen proposal is not to aid rural minorities per se; rather, its primary aim would be to benefit a political—or more precisely, an ideological—group: the conservative forces of the Nation.

The use of legislative apportionment for this purpose goes far back in American history. Ironically, in the beginning—before the Revolutionary War—it was the cities which were overrepresented in the colonial legislatures and it was the rural areas which were underrepresented. But the purpose then as now, was to benefit the more conservative forces. The limited franchise of that period assured the aristocratic groups of control within the cities, and malapportionment was then employed to repress the potential political power of the landed yeomanry of the countryside—which then tended to be the area of "radical" strength. Later, as Gordon Baker wrote in "Rural Versus Urban Political Power," "The rise of cities in the nineteenth century caused the emergence of a large class of propertyless laborers, whose enfranchisement alarmed men of substance, both rural and urban. After losing the battles over an extended suffrage, conservatives in a number of States sought to neutralize its effects by controlling the apportionment of legislative representatives.

In our own times, while malapportionment has aided Republicans, in some places and Democrats in others, it has almost universally helped conservative political forces as against liberal ones. This fact has been widely recognized by both groups. For example, a dozen years ago, Pathfinder, a magazine that describes itself as the voice of the American countryside, asked its readers: Do you get all steamed up when you read that some left-wing labor union is putting pressure on Congress to pass legislation that would be unsound? If so, you're using up a lot of energy unnecessarily. For Congress and the State legislatures are in safe hands. They are controlled by the conservative, commonsense people of countryside America.

In a television interview a few years ago, a leader of the conservative bloc in the Georgia Legislature (who was also a president of the White Citizens' Council) praised the virtues of that State's "county-unit system" in these words: "It keeps down the mobs of the city that Tom Jefferson talked about. It keeps down these bloc votes. The bloc vote does not exist in the rural counties or in the smaller cities. And there, it's no ward politics and no ward organization like there is in the cities. It's the difference between radical government and conservative government in Georgia."

When the advocates of Senator DIRKSEN'S proposal speak of helping "minorities," therefore, it is essential that we keep in mind exactly which minority the proposal would help. It is also helpful, I believe, that we recognize that when Senator DIRK-

SEN uses the word "representation," he actually means "control." This becomes apparent from the Senator's August 11 speech, when referring to his amendment, he said that "It will make the franchise more democratic because it will insure the appropriate representation in the State legislature of the 49 percent of the people who might otherwise be denied representation." But the only kind of representation that would be "appropriate" for 49 percent of the people, according to this reasoning, would be one which gave them at least one more than 50 percent of the seats. In other words, "appropriate" representation for a majority means granting it, in one House, the power of a majority. Clearly nothing less would suffice.

In the same August 11 speech, the Senator asked: " * * * What about the right to an equal vote in the State legislature for the minorities in the State? They may have no right to vote at all if they are denied the right to have a representative in that legislature." Here again, the obviously inappropriate terminology is, I believe, indicative of the purpose, for in actuality, of course, adoption of a population-based apportionment system could not possibly cause anyone to be without representation. Everyone will continue to be represented as before, but everyone will be represented on an equal basis. Minorities will not be transformed into majorities.

The word "minority" is not the only one which can be confusing in discussions of this subject. The word "majority" too, can convey a distorted impression. We often use such phrases as "the urban-suburban majority;" it is an easy line to recite as a unified phrase, but it is not really a unified political fact. There is, first, a vast difference between the urban interests and the suburban interests. And within the urban areas there are silk stocking districts, middle-income districts, and districts that have come to be called the inner city. Within the urban areas there are Negroes and whites, there are Jews, Catholics, and Protestants, rich and poor, Republican and Democratic neighborhoods. And within a State you may have urban areas that are not at all in agreement with one another. Within California you have a Los Angeles and a San Francisco. Within Ohio you have a Republican Cincinnati and a Democratic Cleveland. What we speak of as a "majority," therefore, is not in any sense a cohesive, monolithic majority; it is a majority which contains internal divisions that make its various components as different from one another as the majority itself is from the rural minority. If this majority does have any kind of internal cohesion, it is only in the sense that its members are beset by similar problems: The problems of metropolitan living which are typical of American society as it has evolved during the first two-thirds of this century.

American Government at every level is confronted with the highly complex problems of a modern, urbanized, industrialized civilization. *Baker* v. *Carr* and the subsequent apportionment decisions of the Supreme Court began a process which is making our governmental structure better equipped to meet these problems. The Nation cannot afford to have that process impeded.

Sincerely yours,

GUS TYLER,
Assistant President.

ARMONK, N.Y.,
September 27, 1965.

The Honorable JOSEPH D. TYDINGS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TYDINGS: This is in response to your request for my views on the new version of the reapportionment amendment introduced by Senator DIRKSEN on August 11 (S.J. Res. 103).

Although the new version of the proposed amendment does eliminate the possibility that one branch of a legislature could be patently apportioned on the basis of racial or ethnic groups, that fact does not seem to me to meet the major objections to the amendment. As I noted in my statement before the subcommittee, no one ever supposed that the principal supporters of the amendment, including Senator DIRKSEN, ever intended to permit apportionment on such a basis.

But the main objections to the amendment are not met. They are, first, that the amendment deviates from the basic principle of equality without good cause. It would mark the first time in our history that the Constitution was amended to deprive the people of the United States of equality among themselves, rather than to guarantee that basic right. I do not believe that there have been any events or difficulties in any of the States since the Supreme Court's reapportionment decision which warrant such drastic action.

In addition, the amendment would tend to perpetuate a system of government which has failed in most States because it has resulted in State legislatures that are not responsive to the major need of this century—the urbanization of our society. There is no dispute but that the purpose of the amendment is to create a means by which the people of the cities can be deprived of part of the political voice they would have in the State legislatures based on population. As I stressed in my testimony, this will proportionately affect minority groups more than other segments of our society, and in particular will inevitably do damage to our national efforts to remedy the economic, social and educational disadvantages which we as a nation have placed upon Negro Americans.

None of these objections to the proposed amendment is resolved by the changes in language in the new version.

In addition, I am frankly astonished that the committee would act in any event on a matter of this great importance to the future of the country without any hearings at all, and without giving any groups or interested persons an opportunity to analyze the new proposal, or to record their objections.

Accordingly, in response to your question, I would like again respectfully to note my opposition to the proposed amendment.

Sincerely yours,

BURKE MARSHALL.

ROTHE, MARSTON, MAZEY,
SACHS, & O'CONNELL,
Detroit, Mich., September 3, 1965.

Re Senate Joint Resolution 103—revised Dirksen amendment.

Senator JOSEPH D. TYDINGS,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR TYDINGS: This is to belatedly acknowledge your letter and enclosures of August 25, 1965, just received upon my return from vacation.

I am pleased to comment on the revised Dirksen proposal, as you request.

I most assuredly am opposed to the new amendment, which fails to answer the defects of Senator DIRKSEN'S earlier proposal, some of which defects were pointed out in my testimony before the subcommittee, and others of which have been pointed out by yourself, Senators DOUGLAS, HART, and others.

I find the new Dirksen proposal in some respects similar to the substitute which Senator JAVITS had earlier unsuccessfully recommended for the original Dirksen proposal (S.J. Res. 2). The Javits proposal would have authorized the explicit criteria of "geography or political subdivisions as well as population as factors, if such plan of apportionment bears a reasonable relationship to the needs of the State." Senator DIRKSEN'S current proposal appears to borrow from that language but, if anything, makes matters worse.

Geography, in the legislative apportionment sense, has covered a multitude of sins, ranging from literal representation of area (as in Michigan's 80/20 plan, and Nebraska's 70/30 plan) to deliberate use of historical, social, and similar—or no—factors, as well as to ex post facto rationalization of simple intransigent failure to honor State constitutional commitments. The other new phrase, respecting "insur[ing] effective representation in the State's legislature of the various groups and interests making up the electorate," introduces new mischief and raises innumerable questions, as your own remarks of August 18 to the Senate indicated. At the least, such verbiage gives a peg to the argument invariably made in every case by defendants of the status quo that their State has unique and peculiar characteristics, requiring special treatment; indeed, the particular phrase "effective representation" has become the persistent slogan of those litigants opposing one man, one vote representation, and of the dissenting judges who agree with them. At worst, the phrase might preclude judicial review with respect to an alleged political question, particularly after voters had approved a plan by referendum, whose preamble might contain a statement of purpose reciting that the plan was necessary to effective representation of the State's interests.

As Senator DOUGLAS has recently pointed out, the provision for simultaneous submission of the other factors and population-based plans is superficially beguiling, but with the expectedly rigged presentation, history would no doubt repeat the Colorado and Michigan experiences, where precisely those alternative options were available.

Finally, the new proposal corrects none of the basic faults of philosophy or constitutional law implicit in the earlier one. Nor, "save as a matter of verbiage," as Justice Talbot Smith pointed out in *Scholle* v. *Hare*, 360 Mich. 1 et. at 60, does a plan authorizing reapportionment on geographical factors effectively preclude disenfranchisement on racial grounds.

My congratulations to you and your colleagues in maintaining this dedicated fight in the public interest.

Yours very truly,

THEODORE SACHS.

DENVER, COLO.,
September 28, 1965.

Re reapportionment of State legislatures and improvement thereof.

Senator JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: I regret I could not promptly answer your significant letter to me in regard to Senator DIRKSEN'S "new maneuvers" in regard to the apportionment of at least one house of a State's legislature. I have undergone a long and severe illness due to my war disabilities when I was shot down, and captured and spent many long months at Stalag Luft III, Sagon, Germany.

I also promised Messrs. Alfred Willoughby and William J. D. Boyd of the National Municipal League, which organization has done a noble job in the above subject matters, that I would make a further report thereon to them.

I wanted to present a report on said subject matters based on facts and objective conclusions naturally to be inferred therefrom. Since I cannot finance nor take the full time to evaluate the massive information I have received on said subjects, I am compelled to make my reports to you, and all others hereinbelow indicated, in brief points, as follows:

1. The massive, but basic, brief I submitted to the Supreme Court of the United States, a copy of which I sent to Senator

BIRCH BAYH, of Indiana, virtually answers Senator DIRKSEN and his disciples, point by point. I even went into the use by Congress of the guarantee clause. I am sure Senator BAYH will loan the copy of said brief to you.

2. I find that the primary and basic cause of the poor quality of our malapportioned State legislatures is that the memberships thereof are supported by the emoluments of office, which take the form, in many cases, of bribery, just short of any effective State or National law, making proof of such emoluments punishable by fine, imprisonment or both.

3. When you read my basic brief and compare the language therein with the language in *Reynolds* v. *Sims, Maryland* v. *Tawes,* and *Lucas* v. *the 44th General Assembly of Colorado,* you will note a remarkably similarity. I point to this fact because the facts in said brief are uncontradictable and, with variations existing in the several States, the principles are the same.

4. Senator DIRKSEN, as a lawyer, ought or should know that the doctrine of interposition, as advanced by him and his "disciples," was buried with the Civil War. Prior to that war, for 75 years the States, particularly the Southern States, claimed each had a right to secede from the Union. Abraham Lincoln, the father of the Republican Party, not only asserted the indestructibility of the Union, but helped in the adoption of the 13th, 14th, and 15th amendments to the Constitution. It is a well-known doctrine of constitutional law that a later amendment, effecting a prior amendment or constitutional provision, supersedes it. Therefore, the repeated assertions that the States, under the 10th amendment, have reserved to themselves all rights not expressed in the Constitution, is both illogical and places Senator DIRKSEN squarely against the party of Lincoln.

I must interject at this point that the junior Senator from Illinois, following his melliferous nomination of Goldwater as the Republican candidate for President, met with disastrous defeat. I respectfully suggest that he has earned the right to retirement, for he is not any longer the leader of the Republican Party in the Senate, except for the help he gets from the unreconstructed rebels of the South.

5. The adoption by the Congress of the Voting Rights Act of 1965, supported by Senator DIRKSEN to allure the Negro and other minority voters of his own State, ill behooves him and his disciples. They cannot carry water on both shoulders on the Hamiltonian theory that the people are not only stupid but a mobocracy. His position must be revealed and publicly disclosed. On the one hand, he, in effect, says: "All citizens of voting age ought to have the freedom to vote." Then, on the other hand, he, in effect, says: "But we will control the 'mobocracy' or the people by making it possible for one house of a State's bicameral legislature to be based on other factors, exclusive of race or national origin." Any schoolboy knows that either house has the power to kill in committee or otherwise "pigeonhole" any law passed by the other house of a State's bicameral legislature.

In fact, he is now engaged in just such machinations when he repeatedly tries to tie in his proposed amendments to such popular laws as the immigration bill, etc.

6. The Civil Rights Acts of 1957 and 1960 and the Voting Rights Act of 1965, resolved all doubt of the national consensus that ours is a government of the people, for the people, and by the people in whom all powers of government are first invested. At no time in our history was it seriously argued that cows, mountains, rivers, trees, or pigs had any of the attributes of citizenship, and that the possessors of same were or are now, as of right, entitled to 10 or 1,000 more voting weight, even in the National Congress.

7. The 14th amendment, with its equality clause, is a double-edged sword. Under it, any form of invidious discrimination, either against a majority or a minority, is unconstitutional. Thus the argument that minorities, such as farmers, need special protection against the "mobocracy" of the great metropolitan complexes is sheer nonsense. One hundred and seventy-five years ago our Nation was preponderantly agricultural. Because of that a Cabinet officer to care for their interests was then in order, and so it is now, but not through the deceptive methods proposed by Senator DIRKSEN. Today a Cabinet officer is needed for the urban and metropolitan complexes—the manifold problems of which were never dreamed of by our forefathers—any more than they could foresee a Civil War 75 years after 1789. Because of this fact, today's leaders cannot foresee the shape of things 75 years from now. But, so long as our Constitution remains, as intended to be, flexible and a viable document, and not the static Constitution as Justice Harlan believes it is, our truly and genuinely revolutionary self-government will grow. This cannot be said of the pharaonic governments of the Soviets and Red China. Their methods were tried by the Pharaohs of ancient Babylonia and Egypt. Dr. Toynbee in his "Rise and Fall of 21 Civilizations," makes this fact clear. Thus, we need never fear the now discredited doctrines of Karl Marx and his modern disciples. Mao Tse tung and the men in the Klemlin are not 10 feet tall. What motivates the junior Senator from Illinois is Mao's intuition to "know yourself—now impossible for him because of arteriosclerosis—and know your enemy," which to both Mao and EVERETT is the people.

8. On pages 51 to 83—which data and graphs I authored and inspired and made a part of my said brief—of the Colorado Yearbook, 1962–64, cannot be impeached by any local, State or National official of Colorado.[1]

9. I understand the junior Senator from my State, Senator PETER H. DOMINICK, is quoted as saying that while he supports Senator DIRKSEN, he is not a genuine conservative, but a "Populist." If this is his correct philosophy of government, he will find that he belongs to the defunct "Greenback Party," and an ally of W. J. Bryan. While on this point, many people are shocked to find that Members of Congress spend in "staff personnel" about $260,000 a year, in addition to the $30,000 salary received. The people are shocked further because they did not vote for such high-salaried personnel, but voted for the man in the belief he was competent to do the job he sought and not have to depend on "specialists" to do legislative work, when Members of Congress go around making ghost-written speeches.

10. One of the deep-seated causes of discontent and hate in this country is the continued resort to the appeal to hyphenated Americans. From Valley Forge to Vietnam the man in combat who died, were wounded or made prisoners of war, were treated only as Americans, to be maltreated and otherwise tortured. There is room only in this country for one type of citizen—an American.

11. I find that too many men in the executive, legislative, and judicial departments of Government still believe in Hammurabi's laws. The 4,000 years since his time seems to have resulted in no changes in sociology, medicine, government, the arts or the sciences, as Hammurabi viewed such fields of endeavor.

[1] The graphs on pp. 77 and 81 of said yearbook show a preponderance of vote representation by rural legislators in both houses. Despite the improvement forced upon a reluctant legislature and Governor the metropolitan complexes with more than two-thirds of the people are still substantially outweighed in representation in both houses of the Colorado Legislature.

During this time in our Nation's history we need statesmen, not politicians. We need men of competence and vision, not political hacks whose only concern is "transient self-aggrandizement."

I would like to see some day a United States of America, with Americans all. I would like to see that that which God created in His own image is free and equal, and the abolishment and elimination of exclusive societies made up of members who believe that they, and only they, are purebloods.

I would like to see the development of a stable United Nations of the world, with three coequal and coordinate branches of government, to the end that all men shall be governed by their consent, by laws—not men.

Finally, I want to make it crystal clear I am an Abraham Lincoln Republican, and I am not ashamed of it.

Very respectfully yours,

PHILIP J. CAROSELL.

Copies to: Senator PAUL H. DOUGLAS, of Illinois; Senator EVERETT DIRKSEN, of Illinois; Senator BIRCH BAYH, of Indiana; Senator GORDON ALLOTT, of Colorado; Senator PETER H. DOMINICK, of Colorado; Gov. John Love; Mayor Thomas Currigan; Mr. Allen Dines, majority house leader, of Colorado; Mr. Paul E. Wenke, senate majority leader, of Colorado; Mr. Alfred Willoughby, executive director, National Municipal League; Mr. William J. D. Boyd, senior associate, National Municipal League; the Denver Post; and Rocky Mountain News.

WMCA,
New York, N.Y., September 24, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: It would be my hope that this badly delayed answer to your request of August 25 will still come in time to be of some help in the opposition to Senator DIRKSEN'S new apportionment amendment. I am sure that last week's bad news out of the Judiciary Committee has not ended your efforts to protect the one-man, one-vote decision.

Personally, and on behalf of station WMCA, with which I served as original plaintiff in the New York State apportionment case, here are our views of the new proposed amendment:

1. We oppose this renewed effort to legitimatize the apportionments of State legislatures whose districts do not reflect the true and current population balances of their States.

2. Senator DIRKSEN'S changes in no way meet our earlier criticism.

3. The devices of Federal and State legitimacy with which Senator DIRKSEN would invest unrepresentative apportionments do nothing to make them any more representative. The civil right of one vote for one man is not a right which majorities may take from minorities; nor, for that matter, is it a right which one generation should be allowed to take from the next.

In spite of Senator DIRKSEN'S new sweet coating for nonpopulation apportionments, such apportionments would still be bitter pills for the 14th amendment. Without equal representation for equal units of population, the electoral process cannot guarantee equal protection of the laws to all citizens regardless of their residence.

Our earlier criticisms apply with equal force to Senator DIRKSEN'S new proposals. These are again efforts to underrepresent cities and suburbs in State government. They are, thus, ironically, proposals that would undermine the very same posibilities of strong State government which many of their supporters are eager to advance. Where these proposals would fail to represent true population balances, they would also serve to keep State governments weak and inef-

fective. Growing Federal presence can be the only result of such shortsighted distortion of representative government.

You should, of course, feel free to quote any portion of these views in your efforts against Senate Joint Resolution 103.

Let me also take this opportunity to congratulate you on your outstanding work for fair apportionment. The bouquets that have already been thrown to your June 2 address said it all: it was a scholarly, reasoned, and effective speech.

Sincerely yours,

R. PETER STRAUS.

DENIAL TO SENATOR MORSE OF USE OF PUBLIC SCHOOL AUDITORIUM IN ROCHESTER, N.Y.

Mr. MORSE. Mr. President, several days ago the Board of Education of Rochester, N.Y., suffered a lapse of good judgment and commonsense by taking action seeking to deny the senior Senator from Oregon the use of a public school auditorium in Rochester, N.Y., to discuss American foreign policy in southeast Asia.

Following that action of the Board of Education of Rochester, N.Y., the Chamber of Commerce of Rochester, N.Y., immediately informed the local committee sponsoring the meeting protesting the war in South Vietnam and the necessary auditorium in which to hold the public meeting.

The next day good reason returned to at least a majority of the members of the board of education and the Rochester School Board, and they reversed their action of the day previous.

It was an interesting incident, however, because there is at least a straw in the wind indicating that there are those who would deny to the American people one of the most precious freedoms we have: the freedom of discussion of issues, in regard to which the speakers may disagree with the policy of our Government.

It was interesting to the senior Senator from Oregon to note the reaction to this unfortunate return to McCarthyism even for a few hours, on the part of the Board of Education of Rochester, N.Y.

I request that there be inserted in the RECORD at this time an editorial entitled "The Voice of the Minority," published in the World, Coos Bay, Oreg.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE VOICE OF THE MINORITY

Although they later reversed themselves under the weight of public indignation, the members of the Rochester, N.Y., School Board who voted to ban Oregon Senator WAYNE MORSE from speaking at a Rochester high school are reminiscent of an era which, we had hoped, had pretty much passed from the American scene. But, it appears, certain vestiges of McCarthyism remain with us and in our midst we apparently will always have some who would deny the basic right of expression of opinion to those with whom they disagree.

We were struck with the statement made by one board member, a doctor, who said: "An address by Senator MORSE would be contrary to the national interests." Presumably, therefore, it was believed by the board that persons who openly dissent and object to administration policies are not working in the national interests. The board member quoted would prefer, we must assume, that only those who agree with the course this Nation has taken in Vietnam should be allowed to speak out.

We think it is tragic that presumably intelligent people of the type who hold positions of importance—such as school board members—should be of so narrow a frame of mind and so biased in opinion as to propose that the free speech of others be denied.

This Nation has grown, from its very beginning, from the roots of dissension. We are, in essence, a revolutionary people—an aspect of our national personality quite in evidence in these days of racial discrimination and war profiteering. The radicals in our society are regularly frowned upon; but, in many cases, we can attribute to their agitation many of the steps we have made in social progress.

Those who, in years past, fought for equal rights for women, for the rights of workers in organizing labor unions, and for better working conditions, wages and benefits were, in their time, looked upon as radicals bent on overthrowing our then accepted ways of life. The advocates of social security were, at one time, looked upon as Socialists of the worst sort. Yet, today, the benefits for which they demonstrated and argued are accepted by practically all of us. The same is true of public education, Government financing of highway construction and a host of other tax-supported benefits.

In their day, these people, too, were denied their rights to speak out and dissent. But they persevered and, eventually, the correctness of their arguments was borne out.

Today we are, obviously, in a period of social unrest born of the uncertainties of the cold war and our inability to get along in peaceful fashion with peoples of alien beliefs. While we struggle with the ideological conflicts we face throughout the world we find, here at home, that we must face up to conflicts within ourselves regarding the acceptance of other people—people of different color, different religions, and different political persuasions. The abrupt, totalitarian method of dealing with different people is to sternly prohibit them the right to speak out. In a totalitarian dictatorship where the forces in power rule through fear and physical force, such prohibitions are effective—until such time as the dictatorships are overthrown. But such prohibitions against freedom of expression cannot be effective in the United States as long as we hold on to our constitutional guarantees of liberty.

It is easy—too easy—to say we will simply deny those with whom we disagree the right to state their cases in public.

On the surface, it would be simple to eliminate the Ku Klux Klan, the Socialists, the American Nazis, the Communists, the Vietnam protests and any and all so-called extreme opinions by merely prohibiting them from speaking out. But, when we do so, we find that we have endorsed the tactics of a Hitler or a Mussolini or a Franco.

The American people are not ignorant. The American people are quite capable, history has shown, of making up their minds when they are in possession of all the information on a given issue. We can see no harm, therefore, in allowing—or, even better, encouraging—the fullest expression of minority opinion. The Norman Thomases, the Robert Welches, the Gus Halls, the George Lincoln Rockwells, and the Wayne Morses all have their place in our American life and all—if we are to preserve our democracy—must be allowed to freely express their views in order that the rest of us may sift the fact from fancy, the truth from falsehood, and the good from the bad in the expressed opinions of others.

When we restrict freedom of expression of any one group or individual we open the door to prohibition of expression of all minority opinion. When we tell WAYNE MORSE he cannot speak out because his is a minority opinion contrary to the policies of the Government, we are, in effect, telling the world we will not listen to any arguments other than those agreed to by the majority.

We cannot afford to do this because, whether we like it or not, we are not the majority insofar as the rest of the world is concerned. We, too, are a minority which would like to be heard.

Mr. MORSE. Mr. President, I ask unanimous consent that there be included in the RECORD at this point an editorial that appeared in the Portland Oregonian of September 25. This paper is vigorously opposed to the senior Senator from Oregon, including my views on South Vietnam.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SILLY SUPERPATRIOTS

The Board of Education of Rochester, N.Y., which voted against permitting U.S. Senator WAYNE L. MORSE, Democrat, of Oregon, to speak in a high school auditorium in opposition to U.S. policy in Vietnam, probably is in favor of burning witches, too.

The use of a public school by Senator MORSE would be contrary to national interests, the board announced. How wrongheaded can superpatriots get? It is, always has been, and always will be in the national interest to support constitutional guarantees of freedom of speech, assembly, and publication. Suppression and censorship by self-appointed guardians of the national interest are a real and present danger in America. But, fortunately, the great majority of Americans will not submit.

Senator MORSE's position on United States involvement in Vietnam needs to be stated even if it represented his view, alone, rather than the opinion of many Americans. We disagree with much of what he says, and believe he has become demagogic in his abuse of American leadership. But we would be as mistaken as the Rochester school board were we to refuse to publish in our news columns and letters to the editor the views expressed by readers and public officials in opposition to U.S. policy, or, in dispute of our views.

Freedom of expression is the foundation of all freedoms in the United States of America. Without it, the Nation would shrivel and die.

Mr. MORSE. Both editorials recognize that the issue raised by the Board of Education of Rochester, represents a policy that cannot be tolerated in the United States if the American people are to remain free.

I commend the editors of the Coos Bay World and the Portland Oregonian, not because the senior Senator from Oregon was involved, but because a precious principle of American freedom was involved in the incident.

I commend them for the position they took.

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the joint resolution (S.J. Res. 69) to authorize the Administrator of General Services to construct the third Library of Congress building in square 732 in the District of Columbia, to be named the "Library of Congress James Madison Memorial

Building" and to contain a Madison Memorial Hall, and for other purposes, which were, to strike out all after the resolving clause and insert:

That (a) the Architect of the Capitol under the direction jointly of the House Office Building Commission, the Senate Office Building Commission, and the Joint Committee on the Library, after consultation with a committee designated by the American Institute of Architects, is authorized and directed to construct (including, but not limited to, the preparation of all necessary designs, plans, and specifications) in square 732 in the District of Columbia a third Library of Congress fireproof building, which shall be known as the Library of Congress James Madison Memorial Building. The design of such building shall include a Madison Memorial Hall and shall be in keeping with the prevailing architecture of the Federal buildings on Capitol Hill. The Madison Memorial Hall shall be developed in consultation with the James Madison Memorial Commission.

(b) In carrying out his authority under this joint resolution, the Architect of the Capitol, under the direction jointly of the House Office Building Commission, the Senate Office Building Commission, and the Joint Committee on the Library, is authorized (1) to provide for such equipment, such connections with the Capitol Power Plant and other utilities, such access facilities over or under public streets, such changes in the present Library of Congress buildings, such changes in or additions to the present tunnels, and such other appurtenant facilities, as may be necessary, and (2) to do such landscaping as may be necessary by reason of the construction authorized by this joint resolution.

SEC. 2. The structural and mechanical care of the building authorized by this joint resolution and the care of the surrounding grounds shall be under the Architect of the Capitol.

SEC. 3. There is hereby authorized to be appropriated not to exceed $75,000,000 to construct the building authorized by this joint resolution (including the preparation of all necessary designs, plans, and specifications).

There is also authorized to be appropriated not exceeding $10,000 to pay the expenses of the James Madison Memorial Commission.

And to amend the title so as to read: "Joint resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes."

Mr. JORDAN of North Carolina. Mr. President, on August 30, the Senate passed and sent to the House Senate Joint Resolution 69, an act authorizing the construction of a third Library of Congress Building to be named the "James Madison Memorial Building." Prior to passage, the committee held 2 days of hearings and the legislation was carefully considered by the committee.

The House, on October 1, passed Senate Joint Resolution 69, substituting for it the language contained in House Joint Resolution 642.

I believe that the Senate should accept the House amendments, which are as follows:

First. Changes authorization from the Administrator of General Services to the Architect of the Capitol to construct a third Library of Congress Building. Also includes the Senate Office Building Commission and an American Institute of Architects Committee as bodies to be consulted as to design and construction characteristics.

Second. Provides authorization for full funding of the project for $75 million, rather than limiting authorization to $500,000 for plans and specifications only.

The Senate Public Works Committee, realizing and recognizing the urgent need for additional space for the Library of Congress, believes it is more important to proceed with the building than to insist on a provision that this facility be designed and constructed under the supervision of the Administrator of the General Services. Because of the size and magnitude of this structure, the committee was of the opinion that a $75 million structure would severely tax the Architect of the Capitol's limited staff, and it hopes that the Architect might still take advantage of the General Services' skills in this undertaking.

Senator STEPHEN M. YOUNG, chairman of the Subcommittee on Public Buildings and Grounds, is on official travel for the Armed Services Committee. Before his departure he advised me that he objects to the Architect of the Capitol being in charge of construction of this facility. However, he further stated that if the judgment of the committee and the Senate is that the critical need for this space by the Library of Congress outweighs his concern for the Architect's limitations, he would not press his objection.

The committee is satisfied that the legislation contains adequate safeguards to insure that the plans and specifications developed will be in harmony with the other architecture of the Capitol Hill complex. Further, additional safeguards are built in by way of the appropriation process through which additional congressional guidance can be exercised.

Therefore, Mr. President, the Public Works Committee recommends to the Senate that it accept Senate Joint Resolution 69, as passed by the House, so that we may get on with the task of meeting this great need.

Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina.

The motion was agreed to.

Mr. HOLLAND. Mr. President, I appreciate the attitude of the chairman of the Committee on Public Works, the Senator from Michigan, and that of the Senator from North Carolina [Mr. JORDAN], chairman of the Committee on Rules and Administration, and also a member of the Joint Committee on the Library of Congress, for bringing about final action on this legislation by accepting the amendment of the House of Representatives.

It was my honor to introduce Senate Joint Resolution 69, not only in my own behalf, but also on behalf of the Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], and, of course, the distinguished junior Senator from Virginia [Mr. ROBERTSON], the four of us being the Senate members of the James Madison Memorial Commission. We were honored to have with us as a cointroducer the distinguished Senator from North Carolina [Mr. JORDAN], as chairman of the Committee on Rules and Administration, and in his capacity on the Joint Committee of the Library of Congress.

I believe the adoption of this resolution, and the fact that we are sending it today to the President, is a real milestone, from a historic standpoint, because it constitutes the first real recognition of James Madison, the principal framer of the Constitution and principal defender of the Constitution in the Federalist Papers, and one who probably wrote more than anyone else about our early problems of government and our early purposes in establishing our form of government under the Constitution. He later served in the Congress of the United States, as Secretary of State, and for 8 meaningful years, as President of the United States. That recognition has long been past due.

The fact that this new and handsome building of the Library of Congress will serve as a memorial for James Madison, and will carry several floors of the new building below ground, with temperature and humidity controls, so that it may be used as a resting place and place for the preservation of the precious messages of the Presidents and for their private papers is a historic step.

I congratulate the Senator from North Carolina and the distinguished chairman of the Committee on Public Works for their willingness to accept the House amendments so that we can move forward with this matter.

I am sure that I express the feelings of all members of the James Madison Memorial Commission when I say that we are happy indeed to see this step taken. We look forward to the time at an early date when this fine useful memorial to James Madison will be completed. It will constitute a greatly needed new building for the Library of Congress and rise so close to the Capitol as a memorial to that great President, that great framer of the Constitution who did so much to establish our Nation firmly as a government along the lines upon which we have made such great progress and done such service to ourselves and to the rest of mankind.

I congratulate the distinguished Senator from North Carolina and I thank him.

Mr. ROBERTSON. Mr. President, as copatron of Senate Joint Resolution 69, I wish to associate myself with the remarks of the Senator from Florida [Mr. HOLLAND]; and I urge Senate adoption of the House amendments to the Senate joint resolution.

Mr. CARLSON. Mr. President, I associate myself with the remarks of the Senator from Florida [Mr. HOLLAND].

It was a pleasure to have served on the Commission.

I am glad that the distinguished Senator from North Carolina [Mr. JORDAN] brings in the conference report which he has presented and which the Senate has accepted.

There is no question that an addition to the Library is needed, but more than that, it can be made an important part of the James Madison Memorial.

I believe it is time to congratulate the Senator from North Carolina.

Mr. JORDAN of North Carolina. I am delighted to inform the distinguished Senator from Kansas that the Senate has accepted it, and it is now up to the President of the United States. I am sure he will sign this legislation.

I thank the distinguished Senator from Florida for his most timely remarks.

I have been a member of the Joint Committee on Libraries for a number of years; and every year I am a chairman of that committee. I know not only for the honor and the recognition that should be given to James Madison in preserving his papers as well as those of other Presidents who followed him, and at the same time preserving the vast amount of material the Library of Congress now has.

I appreciate the remarks of the Senators.

FOREIGN ASSISTANCE APPROPRIATION BILL, 1966—CONFERENCE REPORT

Mr. PASTORE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10871) making appropriations for foreign assistance and related agencies for the fiscal year ending June 30, 1966, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of Oct. 1, 1965, pp. 25759–25760, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. PASTORE. Mr. President, on the question of the adoption of the conference report, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. Is the question subject to debate?

The PRESIDING OFFICER. The Chair advises the Senator from Oregon that it is open to debate.

Mr. MORSE. I shall speak briefly. I desire the Senator from Rhode Island to know that my request that the matter go over until today, when consideration of the conference report was asked for yesterday, in no way involved a lack of desire to cooperate with the Senator from Rhode Island. I was advised that the probabilities were strong that no quorum would be present yesterday. The senior Senator from Oregon sought only to have a yea-and-nay vote on the question, for I would never want a foreign aid bill to go through the Senate on a voice vote if I could succeed in getting a yea-and-nay vote. I want every Senator always to have the opportunity to go on record by vote in support of or in opposition to the foreign aid bill.

I have no intention at this hour to reiterate my many reasons for opposing the foreign aid bill in its present form. The Senate is quite familiar with my long list of objections to foreign aid as it is now administered and conducted. The Senate knows that I consider the foreign aid bill to be honeycombed with the waste of hundreds of millions of dollars, gross inefficiency, and shocking maladministration in some underdeveloped areas of the world because of a considerable amount of corruption.

It is the conviction of the senior Senator from Oregon that foreign aid as it is administered in some parts of the world is of great assistance to the Communists. Instead of thwarting communism, which the senior Senator from Oregon seeks to do, foreign aid in its present form is aiding the cause of communism in some parts of the world. Many examples of that could be cited, and I have cited them ad infinitum in many speeches I have made in the Senate. I only mention in passing the military aid support that our foreign aid bill gives to the shocking totalitarian regimes and military juntas in many parts of the world. By and large, military aid to military dictatorships, military oligarchies, and military juntas helps Communists. It does not help freedom-loving people in countries which need to be brought over to the side of freedom.

Mr. President, I ask unanimous consent to have printed in the RECORD the latest poll, which appeared in the Washington Post of October 4, showing the position of the American public in regard to foreign aid.

There being no objection, the poll was ordered to be printed in the RECORD, as

THE HARRIS SURVEY: 65 PERCENT APPROVE THE JOB L.B.J. DOES AS PRESIDENT

(By Louis Harris)

Nearly 9 out of 10 Americans admire President Johnson as a man who gets things done. As a consequence it comes as no surprise that throughout 1965 more than 65 percent of the public have approved of the job he has done as President.

What is more, Mr. Johnson continues to demonstrate an ability to provide something for nearly everybody.

For example, medical care for the aged is approved by 80 percent of the general public and by 86 percent of the retired people, who will benefit most immediately. Federal aid to education is supported by 78 percent of all the people, and by an even higher 87 percent by parents of schoolchildren.

Mr. Johnson's efforts to work for peace are rated positively by 73 percent of the public as a whole, and by 77 percent of families with young men of draft age. The anti-poverty program is approved by 60 percent of the Nation, and by 68 percent of those earning $5,000 or less a year. The President's handling of civil rights meets with approval from 60 percent of the public, and rises to 78 percent support among Negroes.

SOFT SPOTS

The Johnson record, however, is not without its soft spots, any one of which could erode the President's presently strong political position.

Most serious for him is the almost 3 to 1 disapproval that people have of the way he has handled the cost of living. The 44 percent of the public who thought he was doing a good job of keeping prices down last March had shrunk to 28 percent by late September.

Mr. Johnson also appears to be heading for trouble in the area of spending. Last March, 54 percent gave him favorable marks for keeping spending under control. Today, this figure has slipped eight points to less than a majority.

The President continues to be criticized for his handling of the Bobby Baker case, an issue in the 1964 campaign, and approval of his handling of corruption in Government is expressed by only 43 percent of the public.

Perhaps no issue illustrates the consequence of a President pursuing a policy of meeting head-on the public demand of "what have you done for me lately?" better than tax cuts. Around the time that excise taxes were cut earlier this year, Mr. Johnson was heralded by 61 percent for his efforts to keep taxes down. Now, as time dims the memory, approval has fallen off to 56 percent on this score.

CRITICAL ON AID

As serious as any category for the President to be concerned about is that of keeping America out of war, a new entry since the escalation of the war in Vietnam. While 55 percent approve of his efforts to avoid war 45 percent are critical.

The issue of foreign aid, which has plagued both of his predecessors, finds Mr. Johnson no exception. By 52–48 percent, the public disapproves of the job the President has done there.

By and large, however, the spate of legislation passed by Congress and the President's specific policies in foreign affairs—such as his moves in Vietnam and the Dominican Republic—have met with solid public approval. (See table.)

Given such a solid issue-by-issue underpinning, Mr. Johnson's overall rating has remained high throughout 1965:

OVERALL L.B.J. RATING

[In percent]

	Positive	*Negative*
September	67	33
August	69	31
July	69	31
May	65	35
March	66	34
January	68	32

SPECIFIC L.B.J. JOB RATINGS

A cross-section of the public was asked: "How would you rate the job President Johnson has done on (handling medical care for the aged, etc.): Excellent, pretty good, only fair, or poor?"

	Good-excellent		
	September	March	Shift
	Percent	*Percent*	*Percent*
Working for medicare for aged	80	70	+10
Keeping military defense strong	78	69	+9
Providing Federal aid to education	78	71	+7
Working for peace in the world	73	73	None
Keeping economy healthy	69	70	−1
Providing leadership to free world	68	62	+6
Handling Russia	68	65	+3
Handling Dominican crisis	65	64	+1
Handling Vietnam war	65	39	+26
Appointments to high office	64	66	−2
Handling Red China	60	52	+8
Antipoverty program	60	63	−3
Handling civil rights, race problems	60	60	None
Handling Castro and Cuba	58	49	+9
Cutting taxes	56	61	−5
Keeping America out of war	55		
Handling foreign aid	48	48	None
Keeping spending under control	46	54	−8
Keeping corruption out of Government	43	44	−1
Keeping cost of living down	28	44	−16

Mr. MORSE. Mr. President, every once in a while some Senators tell me that I am far out of step in this matter. It is no new walking experience for me to be out of step. I recommend it to Senators. They will not lose their balance by being out of step. One would be surprised at how many will skip a step now and then to get in step with him, once they see the goal he is headed for and the public interest of that goal.

Be that as it may, this poll is a complete rebuttal of the view of those who think the senior Senator from Oregon is out of step on foreign aid. It states that by a margin of 52 to 48 the American people oppose the President's work on foreign aid. The margin was the same in March. The column reports that by a margin of 52 to 48 percent, the public disapproves of the job the President has done there, though it does not report the views of the public on foreign aid as such. As the American people come to understand the startling findings of the Comptroller General of the United States, as set forth in the many reports he has submitted to Congress, many, unfortunately, being marked "Top secret," but bearing out the opposition of the senior Senator from Oregon to foreign aid, the American public will make clear to Congress and the administration in the next year or two that they had better reform foreign aid.

It is because of the record I have made that I have asked for a yea-and-nay vote. I shall vote against the conference report; but in doing so, I say that I have nothing but admiration for the work of the distinguished senior Senator from Rhode Island [Mr. PASTORE] as chairman of the Senate conferees. He had a job to do; and when one is chairman of Senate conferees, one has a clear responsibility to carry out the instructions of a majority of the Senate.

Although the Senator from Rhode Island and I differ on the substantive merits of foreign aid legislation, that does not cause me to hesitate the slightest in commending him for fulfilling his functions as chairman. I only hope that eventually he will come to share more of my point of view concerning an aid program that I consider shocking and is not in the best interests of my country.

Mr. PASTORE. Mr. President, I shall make a short statement, before the vote is taken, to explain the action of the conferees. Before doing so, inasmuch as bouquets are being passed around, I congratulate and compliment the Senator from Oregon for his subtle and beautiful metaphor.

For title I of the bill, the mutual defense and development title, the House recommended appropriations in the amount of $3,285 million. The Senate reduced this figure by $142 million. The conference committee has agreed to restore $75 million of the Senate reduction and recommends an appropriation of $3,218 million. The $75 million increase over the Senate bill provides an additional $20 million for technical cooperation and development grants; an additional $10 million for international organizations; an additional $20 million for supporting assistance and an additional $25 million for general development loans.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a tabulation which gives the budget estimates, the House and Senate figures and the amounts agreed to in conference for each line item in the bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Comparative statement of appropriations for 1965, and estimates and amounts recommended in bill for 1966

TITLE I—FOREIGN ASSISTANCE

Item	Appropriations, 1965	Budget estimates, 1966 (amended)	House allowance	Senate allowance	Conference allowance
FUNDS APPROPRIATED TO THE PRESIDENT					
MUTUAL DEFENSE AND DEVELOPMENT					
ECONOMIC ASSISTANCE					
Technical cooperation and development grants	$202,070,900	[1] $219,000,000	$202,355,000	$182,355,000	$202,355,000
American schools and hospitals abroad	16,800,000	7,000,000	7,000,000	7,000,000	7,000,000
Surveys of investment opportunities	1,600,000				
International organizations and programs	134,272,400	145,555,000	144,755,000	134,755,000	144,755,000
Supporting assistance	401,000,000	[2] 449,200,000	369,200,000	349,200,000	369,200,000
Contingency fund, general	99,200,000	50,000,000	50,000,000	50,000,000	50,000,000
Contingency fund, southeast Asia			89,000,000	89,000,000	89,000,000
Alliance for Progress:					
Technical cooperation and development grants	84,700,000	85,000,000	75,000,000	75,000,000	75,000,000
Development loans	425,000,000	495,125,000	445,125,000	435,125,000	435,125,000
Development loans	773,727,600	780,250,000	675,225,000	593,225,000	618,225,000
Administrative expenses, AID	53,600,000	55,240,000	54,240,000	54,240,000	54,240,000
Administrative expenses, State	3,029,100	3,100,000	3,100,000	3,100,000	3,100,000
Subtotal, economic assistance	2,195,000,000	2,289,470,000	2,115,000,000	1,973,000,000	2,048,000,000
MILITARY ASSISTANCE					
Military assistance	1,055,000,000	1,170,000,000	1,170,000,000	1,170,000,000	1,170,000,000
Limitation on administrative expenses	(*24,000,000*)	(*23,500,000*)	(*23,500,000*)	(*23,500,000*)	(*23,500,000*)
Total, title I, foreign assistance	3,250,000,000	3,459,470,000	3,285,000,000	3,143,000,000	3,218,000,000

TITLE II—FOREIGN ASSISTANCE (OTHER)

FUNDS APPROPRIATED TO THE PRESIDENT					
Peace Corps	$87,100,000	$115,000,000	$102,000,000	[3] $102,000,000	[3] $102,000,000
Limitation on administrative expenses	(*22,708,000*)	(*24,100,000*)	(*24,100,000*)	(*24,100,000*)	(*24,100,000*)
DEPARTMENT OF THE ARMY—CIVIL FUNCTIONS					
Ryukyu Islands, Army, administration	14,441,000	14,733,000	14,733,000	14,733,000	14,733,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
Assistance to refugees in the United States	32,211,000	32,265,000	32,265,000	30,000,000	30,000,000
DEPARTMENT OF STATE					
Migration and refugee assistance	8,200,000	7,575,000	7,575,000	7,575,000	7,575,000
FUNDS APPROPRIATED TO THE PRESIDENT					
Investment in Inter-American Development Bank	455,880,000	455,880,000	455,880,000	455,880,000	455,880,000
Subscription to the International Development Association	61,656,000	104,000,000	104,000,000	104,000,000	104,000,000
Total, title II, foreign assistance (other)	659,488,000	729,453,000	716,453,000	714,188,000	714,188,000

[1] Includes $9,000,000 for "Supporting assistance" for southeast Asia.
[2] Includes $80,000,000 for "Supporting assistance" for southeast Asia.
[3] Plus $12,100,000 for unobligated funds remaining available on June 30, 1965.

Comparative statement of appropriations for 1965, and estimates and amounts recommended in bill for 1966—Continued

TITLE III—EXPORT-IMPORT BANK OF WASHINGTON

Item	Appropriations, 1965	Budget estimates, 1966 (amended)	House allowance	Senate allowance	Conference allowance
Limitation on operating expenses	($1,350,060,000)	($1,186,120,000)	($1,186,120,000)	($1,186,120,000)	($1,186,120,000)
Limitation on administrative expenses	(3,915,000)	(4,052,000)	(4,052,000)	(4,052,000)	(4,052,000)
Total, title III, Export-Import Bank	(1,353,975,000)	(1,190,172,000)	(1,190,172,000)	(1,190,172,000)	(1,190,172,000)
Grand total, all titles	3,909,488,000	4,188,923,000	4,001,453,000	3,857,188,000	3,932,188,000

Mr. PASTORE. Mr. President, in short, the Senate reduced the House amount by $142 million. In conference, $75 million was restored, which means that the conference report is $75 million above the Senate figure and $67 million below the House figure.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to the Senator from Florida.

Mr. HOLLAND. I have had the responsibility for some time to serve as one of the Senate conferees on the foreign aid appropriations bill. The distinguished Senator from Rhode Island had a unique experience as well as a unique responsibility this year, because this is the first time, at least during my service in the Senate, when the Senate figure has been below the House figure for the foreign aid appropriation bill.

I want the RECORD to show that the Senator from Rhode Island carried that responsibility in magnificent fashion. My own feeling was that the substantial compromise that was effected was a sound one and that the additions that were made, even though we regretted them because the Senate itself had not made them, were in fields which were much better understood as requiring additions than other fields in which the Senate position was maintained and recognized in conference.

Mr. PASTORE. Mr. President, the senior Senator from Florida [Mr. HOLLAND] was a bulwark of strength, not only during the progress of the hearings in which we were formulating the final figures which have come before the Senate, but also during the conference.

Mr. HOLLAND. Mr. President, I thank my friend the senior Senator from Rhode Island.

This is a rather disturbing job always, but I have felt for a long time that, in a world that is so disturbed, and with the advice of all our Presidents of recent years, of both parties, the advice of our joint chiefs of staff, the advice of our Secretaries of State, and all who know most about foreign affairs being so strongly in support of many of the items in the foreign aid bill, most of us required to vote should realize that there must be strength to their joint recommendations. When they tell us that these dollars go further in defending our own security than perhaps even dollars spent for our own military security, we are obligated to accept that joint and uniform recommendation as having great value.

Mr. President, I was very much disturbed when I learned during the course of the conference on the foreign assistance bill that the malaria eradication program for fiscal year 1965 was cut back by the administration to the tune of approximately $6 million. I immediately inquired as to why funds appropriated by Congress were withheld from this most important program.

I do not believe that there is any part of foreign aid which is more intimately helpful to many of our friends in Latin America than the malarial control program. I have long been interested in it and in its continued existence in the serving of the very precious cause which it serves.

I was happy to learn that the program was not cut back by $6 million but, as a matter of fact, that $6,190,000 of the 1965 program had been deferred until fiscal year 1966. In other words, it had not been spent during fiscal year 1965.

For fiscal year 1965, a malaria eradication program totaling $25,609,000 was initially contemplated. Of this sum, $14,790,000 was to be funded out of the Development Loan Fund and $10,819,000 was to be funded from the technical cooperation and development grant account.

Of the development loan funding provided in fiscal year 1965, a total of $6,190,000 was to be loaned to four countries in Central America—namely, El Salvador, Guatemala, Honduras, and Nicaragua—after each country had completed its plan for eradication. Unfortunately, the plans for all four countries had not been completed in fiscal year 1965; thus, loans totaling $6,190,000 were withheld pending completion of each country's plan.

I understand that all plans have now been completed, and that the $6,190,000 which was supposed to be loaned in fiscal year 1965 will now be loaned in fiscal year 1966. In fact, I have been informed that this sum will probably be obligated during the next few weeks in the four Central American countries previously named—countries which are our close neighbors and good friends.

This means, Mr. President, that the malaria eradication program initially contemplated and justified to Congress for fiscal year 1966, totaling $19,105,000, will now be increased by $6,190,000 to $25,295,000—the full amount of the program.

The malaria eradication program is perhaps one of the most important programs funded in the foreign assistance bill, and in the past Congress has repeatedly made this fact known by including language in the reports of either the Senate or the committee of conference that the full budget estimate for the malaria eradication program is hereby made available.

The fact that report language has not been included this year should not be construed as a lack of interest on the part of the Congress in the malaria eradication program. On the contrary, I believe that Congress considers the malaria eradication program to be most important, a fact to which the distinguished senior Senator from Rhode Island [Mr. PASTORE] will, I am sure, also attest.

Mr. President, I feel confident that I speak for everyone in the Senate in admonishing the administration to carry out in fiscal year 1966 the full budget estimate for malaria eradication, plus the $6,190,000 that was deferred in the fiscal year 1965 program.

Mr. PASTORE. Mr. President, I concur wholeheartedly with my distinguished colleague the senior Senator from Florida.

I have known of the interest of the Senator in the malaria eradication program, especially in Central America. It is my understanding, as it is his, that the carryover, which was not committed last year because the plans were not completed, will be spent in 1966, together with what has been allotted for 1966.

Mr. HOLLAND. Mr. President, I thank the distinguished chairman for corroborating, as I knew he would, the importance of this program and the commitment which Congress makes at this time.

I thank the Senator again for his leadership throughout the consideration of this bill, as well as for the gracious words spoken by him relative to the Senator from Florida.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Maryland [Mr. BREWSTER], the Senator from Nevada [Mr. CANNON], the Senator from Idaho [Mr. CHURCH], the Senator from Michigan [Mr. HART], the Senator from Arizona [Mr. HAYDEN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Utah [Mr. Moss], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Rhode Island [Mr. PELL], the Senator from New Jersey [Mr. WILLIAMS], and the Senator

from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Virginia [Mr. BYRD], the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Carolina [Mr. RUSSELL], and the Senator from Missouri [Mr. SYMINGTON] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH], the Senator from Idaho [Mr. CHURCH], the Senator from New York [Mr. KENNEDY], the Senator from Nevada [Mr. CANNON], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PELL], the Senator from New Jersey [Mr. WILLIAMS], the Senator from Ohio [Mr. YOUNG], and the Senator from Michigan [Mr. HART] would each vote "yea."

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Virginia [Mr. BYRD]. If present and voting, the Senator from Maryland would vote "yea," and the Senator from Virginia would vote "nay."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN] is absent on official business.

The Senator from New Jersey [Mr. CASE], the Senator from New York [Mr. JAVITS], the Senator from South Dakota [Mr. MUNDT], and the Senator from Massachusetts [Mr. SALTONSTALL] are absent by leave of the Senate as delegates to attend the NATO Parliamentary Conference in New York City.

The Senator from Nebraska [Mr. CURTIS], the Senator from Kentucky [Mr. COOPER], the Senator from Colorado [Mr. DOMINICK], the Senator from Iowa [Mr. MILLER], the Senator from California [Mr. MURPHY], the Senator from Kansas [Mr. PEARSON], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Hawaii [Mr. FONG] is detained on official business.

The Senator from Pennsylvania [Mr. SCOTT] is absent on official business.

If present and voting, the Senator from New York [Mr. JAVITS], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "yea."

On this vote the Senator from Kentucky [Mr. COOPER] is paired with the Senator from Nebraska [Mr. CURTIS]. If present and voting, the Senator from Kentucky would vote "yea," and the Senator from Nebraska would vote "nay."

On this vote, the Senator from Colorado [Mr. DOMINICK] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Colorado would vote "yea," and the Senator from Texas would vote "nay."

On this vote, the Senator from Iowa [Mr. MILLER] is paired with the Senator from California [Mr. MURPHY]. If present and voting, the Senator from Iowa would vote "yea," and the Senator from California would vote "nay."

On this vote, the Senator from New Jersey [Mr. CASE] is paired with the Senator from South Dakota [Mr. MUNDT]. If present and voting, the Senator from New Jersey would vote "yea," and the Senator from South Dakota would vote "nay."

On this vote, the Senator from Hawaii [Mr. FONG] is paired with the Senator from Kansas [Mr. PEARSON]. If present and voting, the Senator from Hawaii would vote "yea," and the Senator from Kansas would vote "nay."

The result was announced—yeas 40, nays 23, as follows:

[No. 279 Leg.]

YEAS—40

Allott	Hill	Muskie
Bartlett	Holland	Nelson
Bass	Inouye	Pastore
Boggs	Jackson	Prouty
Burdick	Kennedy, Mass.	Proxmire
Byrd, W. Va.	Kuchel	Randolph
Carlson	Long, La.	Ribicoff
Clark	Magnuson	Smathers
Dirksen	Mansfield	Smith
Dodd	McGee	Sparkman
Douglas	McGovern	Tydings
Gruening	McIntyre	Yarborough
Hartke	McNamara	
Hickenlooper	Mondale	

NAYS—23

Bennett	Harris	Russell, Ga.
Bible	Hruska	Simpson
Cotton	Jordan, N.C.	Stennis
Eastland	Jordan, Idaho	Talmadge
Ellender	McClellan	Thurmond
Ervin	Morse	Williams, Del.
Fannin	Morton	Young, N. Dak.
Fulbright	Robertson	

NOT VOTING—37

Aiken	Hart	Murphy
Anderson	Hayden	Neuberger
Bayh	Javits	Pearson
Brewster	Kennedy, N.Y.	Pell
Byrd, Va.	Lausche	Russell, S.C.
Cannon	Long, Mo.	Saltonstall
Case	McCarthy	Scott
Church	Metcalf	Symington
Cooper	Miller	Tower
Curtis	Monroney	Williams, N.J.
Dominick	Montoya	Young, Ohio
Fong	Moss	
Gore	Mundt	

So the conference report was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HOLLAND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 10871, which was read as follows:

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 10 and 11 to the bill (H.R. 10871) entitled "An Act making appropriations for Foreign Assistance and related agencies for the fiscal year ending June 30, 1966, and for other purposes", and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9, and concur therein with an amendment, as follows: In lieu of the matter proposed, insert the following:

"SEC. 116. No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country that sells, furnishes or permits any ships under its registry to carry to North Vietnam any of the items mentioned in subsection 107(a) of this Act unless the President determines that the withholding of such assistance would be contrary to the national interest of the United States and reports such determination to the Congress."

Mr. PASTORE. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate No. 9.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD an explanation of the motion that was just agreed to by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The explanation is as follows:

The language agreed to in conference on amendment No. 9 in lieu of the Senate language reads as follows:

"No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended, to any country that sells, furnishes or permits any ships under its registry to carry to North Vietnam any of the items mentioned in subsection 107(a) of this act unless the President determines that the withholding of such assistance would be contrary to the national interest of the United States and reports such determination to the Congress."

In addition the reference to North Vietnam in amendment No. 7 has been deleted, and the reference to North Vietnam in No. 8 has been retained.

The effect of the revised language is to allow the President discretion should he determine that the withholding of assistance would be contrary to the national interest of the United States.

Mr. FONG subsequently said: Mr. President, I wish the RECORD to show that I arrived about 2 minutes late for the rollcall on the foreign aid appropriation conference report. Had I been present, I would have voted for the report.

I had inquired as to whether there would be a vote, and was told there would be none, so I left the building. Upon being notified that there was a vote, I came directly to the floor, but I was 2 minutes late.

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana [Mr. MANSFIELD] to proceed to the consideration of H.R. 77, to repeal section 14(b) of the National Labor Relations Act, as amended.

Mr. MANSFIELD. Mr. President, on October 1, I sent the following telegram to all Democratic Senators:

Active consideration of 14(b) has commenced. Procedural difficulties anticipated. Votes at any time. All Members should be available henceforth for quorum calls and votes.

Mr. President, this has been my request to all Democratic Senators. Be-

cause of extraordinary circumstances I told two Senators who called me that, in my opinion, they need not return to the city on Monday, but that from then on they should be here.

Mr. President, I am sending today a second telegram to all Members on the Democratic side of the aisle, urging them to remain in the Senate or to return here, as the case may be, to cancel engagements and plans, in order to be available for quorum calls or votes, until the present situation is clarified.

Mr. President, the leadership has certain responsibilities for maintaining an orderly legislative program during the sessions of the Senate. It also has some responsibility for bringing the session to an orderly close. I should like, therefore, to set forth certain observations on the situation which confronts the Senate with respect to 14(b). It is necessary to do so in order to provide some understanding of the leadership's predicament.

Insofar as the administration is concerned in this matter of 14(b), its position is clear. President Johnson upholds fully the Democratic Party platform of 1964 which calls for the repeal of section 14(b). He has asked the Congress again and again to repeal section 14(b). He has expressed approval of the House passage of H.R. 77 to repeal section 14(b). He would like to see the Senate act to repeal section 14(b). He stands ready now to sign a bill for the repeal of 14(b).

In short, we know where the President stands on 14(b). We know where the House stands. What remains to be determined is where the Senate stands.

So the responsibility for what transpires with respect to 14(b), at this point, rests solely with the Senate. The President understands the constitutional demarcation as between the responsibility of the Senate and the responsibility of the executive branch. He has honored it in the past. He will honor it in this situation.

I would hope and expect that the Senate will be equally mindful of it. I would hope that Members will recognize and accept fully the responsibility which that demarcation lodges in the Senate at this time with respect to 14(b).

Speaking for myself, let me say that as a Senator of the United States from Montana, which I am before all else, I am satisfied that section 14(b) should be repealed. The issues of 14(b) have been thoroughly examined in the House, in the appropriate Senate committee and in the press. H.R. 77, as properly reported by a Senate committee, has been on the calendar for a month. I am ready to vote for repeal. I am ready to vote for repeal now, today, or at any time a vote can be had.

In all frankness, I see no point or need for a prolonged discussion of this matter on the Senate floor. But as majority leader, I know very well that others do not see the matter in quite the same light. Some, indeed, would like to talk the question of 14(b) to death. Let us be under no illusions as to what we are about. Call it educational debate. Call it prolonged discussion. Call it a filibuster. Whatever it is called, the facts are the same. The opposition to repeal 14(b) is such and the rules of the Senate are such, that a final disposition of 14(b) can be delayed for weeks or months. It can be so delayed unless, not a simple majority but a preponderant majority of the Senate decides otherwise. That is the reality and there is no point in blinking at it.

Ten-hour sessions; twelve-hour sessions; twenty-four-hour sessions will not change the reality. There are no short cuts which will change it. There are no procedural tricks which will change it. Only the presence of Members and their votes will change it.

The leadership can state flatly, therefore, that there will be no mock trial of this question by physical endurance. There will be no pajama sessions of the Senate. The leadership did not resort to those exercises in futility during the civil rights debate, the voting rights bill, the reapportionment bill, the Telstar debate, or during any of a number of other controversies which have come before the Senate in recent years. It will not resort to them on this issue.

In the first place the leadership will not subject a Senate of extraordinary dedication such as this one has been to that sort of meaningless and demeaning ordeal, at the end of 9 months of extremely fruitful work for the benefit of the entire Nation. In the second place the leadership, which seeks passage of repeal of 14(b) as soon as it is possible will not, in that fashion, aid further the proponents of delay. For that, in the end, is what a trial by physical endurance will do.

The leadership will proceed in an orderly fashion in an effort to steer the Senate out of this predicament. As usual, however, the leadership can only propose; in the end it is the Senate which will dispose.

The leadership, for example, proposed the other day when it asked the Senate to proceed at once to the consideration of repeal of 14(b)—a procedural proposition which is normally concluded on the floor of the Senate in a matter of seconds. Some Members were prepared so to proceed. Others were not. And the leadership is still waiting for the Senate to dispose of this simple procedural matter. I say that not in criticism but merely to point up the reality of the predicament. Obviously, it is not so simple a matter of whether the Senate is prepared to decide to repeal or not to repeal section 14(b). That there is more involved here is clearly indicated by this continuing delay. There are other currents running in the Senate in addition to this issue. There is the question of whether or not another time would be more appropriate for a consideration of 14(b). There is the question of the relative weight to be given this issue of 14(b) among many issues. And there is the question of adjournment of the 1st of two sessions of the 89th Congress.

It is through these and other currents, as well as through the fundamental clash of for repeal and against repeal of 14(b) that the leadership is seeking the course which accords with the Senate's desires.

The leadership has its own estimate of these desires, but it is not enough in a predicament of this complexity. The leadership feels the need to test these various Senate currents in votes and asks for the Senate's cooperation to the end that these tests may be forthcoming without further aimless delay.

Accordingly, the leadership hereby serves notice that on this Friday it will move for a vote in the Senate in an entirely orderly although somewhat unusual fashion. The motion which the leadership will offer at that time will not be debatable. It will be a move to table the leadership's own pending motion to take up 14(b) and the leadership will then vote against the tabling motion it offers.

The leadership is under no illusion that this course will resolve the matter. It will be satisfied if it unravels the outer strings. It is hopeful only that the vote will be an honest expression of the attitudes of Members on the motion offered and, hence, provide some measure of guidance as to the direction in which the Senate, as a whole, desires to move.

All Members on both sides of the aisle are now on notice of the leadership's intentions. I would hope and expect that Members will be present not only for the vote on Friday but for all quorum calls during the next few days to the end that the debate on the pending question may proceed without delay. And may I say, in this connection and in all frankness, that the presence or absence of Members is in itself to some extent indicative of the Senate's desires.

All Members on this side of the aisle, without exception, have already been notified by wire to anticipate quorum calls and votes during this week and beyond. I reiterate that special notice at this time. I would urge all Democratic Members to stay in this city, to return to it if they are away, and to cancel travel plans until further notice.

The leadership is hopeful of the concurrence of the minority leader in seeking to bring the Senate in no later than 11 a.m. for the balance of the week. That will facilitate the clearance of other matters of business. It will also serve to accommodate Senators—most of whom, I believe, are on his side of the aisle who wish to address themselves to this critical pending question, not of the issue of repeal of 14(b) itself but of whether or not to proceed to consider it.

In closing, I can only say that I have been asked countless times in recent days, by Members and by the press, these questions: When will the Senate adjourn? And, what will happen to 14(b)? As a Senator from Montana, I have no difficulty in answering these questions for myself. I should like to see 14(b) repealed and the sooner the better. And I should like to see the Senate adjourn, thereafter, and the sooner the better.

But as majority leader, I am constrained to point out that insofar as the Senate as a whole is concerned only the Senate as a whole can answer.

LEGISLATIVE PROGRAM

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PASTORE. If the motion to table does not carry, it means that the motion to proceed to consider is still alive?

Mr. MANSFIELD. That is correct.

Mr. PASTORE. And this action will transpire on Friday next. Does that mean that if the motion does not carry, we may expect to be in session Saturday as well, or has the Senator decided on that?

Mr. MANSFIELD. We should not rule out a Saturday meeting.

AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—CONFERENCE REPORT

Mr. LONG of Louisiana. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9042) to provide for the implementation of the Agreement Concerning Automotive Products Between the Government of the United States of America and the Government of Canada, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of Friday, Oct. 8, 1965, p. 26386, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. LONG of Louisiana. Mr. President, this bill implements the automotive products agreement worked out with Canada earlier this year. Under the agreement, as implemented by this bill, both Canada and the United States agree to remove tariffs on automobiles and original equipment parts traded between manufacturers in both countries. Canada has already eliminated her duties; this bill authorizes the President to eliminate ours.

H.R. 9042 passed the Senate on September 30 by a vote of 54 to 18, adding 12 amendments to the House bill. The House conferees accepted 10 of these amendments with only technical changes. However, they refused to yield on the other two and we were compelled to compromise them. I am certain Senators will agree with me that the compromises we worked out with the House preserve the thrust of both of the Senate amendments.

The first compromise dealt with procedures for negotiating and implementing new agreements concerning automotive products. Under the House bill, before the President entered into a new automotive products agreement, he was required to publish notice of the pending negotiations and seek information from the Tariff Commission and other interested departments. After he had concluded an agreement he was required to submit it to Congress. Congress was given 60 days within which to object to its implementation, and if it failed to express disapproval within this 60-day period, the agreement was deemed to have been approved. Thereupon, the President was empowered to proclaim the tariff modifications necessary to implement it.

The Senate amendment was offered in committee by the junior Senator from Illinois [Mr. DIRKSEN]. It provided that the tariff modifications necessary to implement a new automotive products agreements could not be proclaimed until Congress passed a concurrent resolution affirmatively approving it.

Thus, under the House bill, both Houses had to express disapproval of an agreement or it could be implemented. On the other hand, by the Senate version, both Houses had to approve it or it could not be implemented.

Under the conference agreement the Senate conferees yielded to the House on the technical statutory test, but the House conferees yielded to the Senate on the more important question of substance by agreeing to terminate the entire provision as of the day following the enactment of the bill. From the standpoint of congressional action required, the effect of terminating the provision is precisely the same as if the Senate amendment had been agreed to without change. This is because a new automotive products agreement cannot be implemented in the future without prior congressional approval expressed in enabling legislation.

When the bill was considered in committee some Senators preferred to delete the provision because they wanted Congress to retain its constitutional authority to eliminate tariffs until after it had considered any new automotive agreements which might be concluded in the future. Others felt the procedures—particularly publication by the President of impending negotiations and the informational studies required of the Tariff Commission—were safeguards which would insure the automobile replacement parts industry of an opportunity to participate in the formulation of any new agreement which might affect them.

I believe we have satisfied both viewpoints with this conference agreement. Senators who did not want to give the President advance authority to terminate our tariffs will have an opportunity, just as they had under the Senate amendment, to review future agreements before they could be implemented. On the other hand, those who viewed the procedure as a safeguard for the replacements parts industry will be heartened by the statement of the managers on the part of the House. In it the conferees of both the House and Senate expressed the hope that should the President enter into another automotive products agreement, he should first give reasonable public notice through the Federal Register so that interested parties will be advised and can act to present their views. He is also urged to seek information from the Tariff Commission and from other interested Departments. I feel confident that the President will follow these procedures if he should undertake a new agreement.

The net effect of what we have done in conference is to insure that the President may not implement a new automotive products agreement without the consent of Congress. That was the objective of the Senate amendment. Similarly, it is the result of the conference agreement.

The other amendment which was not acceptable to the House dealt with the effect of new undertakings by auto manufacturers to increase the Canadian value added of their Canadian production above the level agreed to in letters submitted before the date of enactment of this bill. These letters committed the Canadian manufacturers—which are subsidiaries of U.S. corporations—to produce 60 percent of the increase in Canadian auto sales through the use of Canadian parts and labor and also to increase Canadian output by an additional $241 million. This latter objective is to be achieved by the end of model year 1968.

The reason for these undertakings is simple. It was brought out many times during our 3 days of debate on the bill. Canada is an inefficient, high cost producer of automobiles. Without the company undertakings Canada feared the efficient, low cost United States producers would have overrun the Canadian market and Canada would have lost its automobile industry. Because of the undertakings, Canada is assured that she will be allowed to produce for her own market while she is gaining the efficiency and long production runs necessary to compete with the U.S. industry in the new, integrated North American automobile market.

The Senate amendment was new. There was nothing like it in the House bill. It was offered in committee by the junior Senator from Connecticut.

It would have provided for automatic reimposition of our tariff in the event of new undertakings—caused by governmental action—to increase Canadian value added to a level above the level agreed to in letters submitted before the date of enactment of this act. As I have pointed out, this insured Canadian production of 60 percent of the increase in Canadian sales plus $241 million. Under the Senate amendment, Congress could have acted to continue duty-free treatment by approving new enabling legislation in light of the additional undertakings.

The House conferees were not unsympathetic to the objective of this amendment which was to enable Congress to review new commitments affecting Canadian value added after 1968.

However, they felt automatic reimposition of the U.S. duties was not the proper way to accomplish this objective. They felt the automatic feature of the Senate amendment would cause so much uncertainty that long-range business decisions might be jeopardized. They pointed out that where even a small parts manufacturer was required to undertake to increase its Canadian value added after 1968, tariff barriers would go up in this country against importation of all automotive products from Canada. This could occur for reasons totally beyond control of the auto companies and its effect could seriously undermine the advantages and economies sought to be gained through the agreement.

The House conferees insisted that congressional review could be effected with less disruption to the business community by requiring the President to advise Congress whenever there have been new undertakings by reason of governmental action to increase Canadian value added after 1968 and to advise Congress whether such undertakings are additional to undertakings agreed to in letters submitted before the date of enactment of this bill. Actually, the State Department advises that the present undertakings expire at the end of model year 1968 and they will resist any efforts by the Canadians to impose new demands on the automobile manufacturers.

Because of the House insistence that it would not accept the language of the Senate amendment, we were constrained to yield to the approach suggested by the House. However, I hasten to point out that the solution agreed to by the conferees fully enables Congress to review any undertakings that may extend beyond 1968 and to enact legislation to deal with these undertakings in the light of the situation which exists when they arise.

Mr. President, the administration fully supports the bill as it has been agreed to by the conferees. Similarly, the companies affected by the agreement support the bill. Labor also favors it not only because of the increased employment and higher wages it will make possible both in this country and in Canada, but also because of the lower automotive prices it will make possible through increased efficiency.

These benefits are already being realized despite the fact that the agreement is still less than 1 year old and despite the fact that the United States has not yet performed its obligations under the agreement. Only last week Ford announced price cuts of from $127 to $250 on certain of its models sold in Canada.

I urge approval of this conference report so that the automotive industry on both sides of the border can be fully integrated to serve an expanding North American market free of tariff barriers which heretofore have retarded trade between this country and Canada.

To sum up, there were two matters in controversy with the House. One of them involved section 202, on which the Senate and House were in disagreement, and it was felt that the best way to resolve it would be to strike the section from the bill. Since certain language in the House and the Senate version was identical, we could not do that without its being subject to a point of order. That being the case we agreed to leave the language in the bill and take the House version with an amendment that the section would expire on the day after the President signed the bill. That was done. I checked with our Parliamentarian, and he has advised me that we are within our parliamentary rights.

There was another proposal in conflict, the amendment by the Senator from Connecticut. Because of the insistence of the House conferees, it was necessary for the Senate conferees to compromise that amendment.

I have already described the compromise setting up the procedure the conferees felt should be followed.

Mr. HARTKE. Mr. President, as we come today to a vote on accepting the conference committee report concerning implementation of the Canadian auto and parts agreement, it may be useful to try to state briefly what is involved.

In November 1962, the Canadian Government initiated a program to stimulate exports of automotive products. The plan involved a rebate of duty on imports in return for greater exports of Canadian-made cars and parts. Export of parts went from $9 million in 1962 to $30 million in 1963 and $65 million in 1964, while value of complete cars exported jumped from $3 million in 1962 to $24 million in 1964. The economic climate in Canada was a part of Studebaker's decision to move from South Bend to Hamilton, Ontario, announced about 6 weeks after the rebate plan was expanded in 1963.

Parts plants were hurt, including some in Indiana. Under our law, the Treasury properly should have responded by ordering countervailing duties. Parts manufacturers and their association filed a suit to compel that action, but shortly afterward the present agreement was signed by President Johnson and Prime Minister Pearson. It has been in effect since that time, January 16, 1965, on a conditional basis while the implementing legislation was pending.

Chrysler, Ford, and General Motors in 1964 produced 95 percent of U.S.-made passenger cars, and their Canadian subsidiaries made 90 percent of that country's production. American Motors, Studebaker, and Volvo also make cars in Canada.

Under the agreement, motor vehicles and parts to be used in manufacture of new vehicles in the United States come in duty free. Canada gives duty-free treatment to imports of U.S. new cars and parts for use in Canadian auto manufacture, but not to imports for sale to Canadian citizens. Thus the free trade involved is only free trade between the Canadian and American auto makers.

The Canadian auto firms, which are U.S. subsidiaries, have promised the Canadian government in return: First, to maintain the level of 1964 model year production; second, to add to this an equivalent share of the growth in the Canadian market; and third, to increase in the next 3 years these levels by another $241 million annually. It is worth noting that the base year is one which reached a high level under the illegal rebate scheme, which we have now in effect adopted as the starting point for a legitimate sanctioned agreement.

In the first seven months of this year, under the agreement, jobs and output in the Canadian auto and parts industry have risen nearly three times as fast percentagewise as in the United States. In the near future we may expect to see, because of this agreement, a great number of transfers of companies and jobs from the United States to Canada. This will be particularly true in the parts industry.

The legislation, with its elaborate provisions for aid to those adversely affected, assumes such dislocation and hardship. The expectation is that Canadians will attain a one-third increase in the share of the North American auto market they will supply. The favorable conditions set up for them, which will encourage migration of U.S. jobs, may well result in expansion beyond that point, to the further detriment of our own jobs in the industry.

It is for these reasons and others that I have opposed the legislation, and it is for these reasons that I sought a delay in implementing the agreement pending a full study by the Tariff Commission.

Mr. President, I still believe this agreement is what the Washington Post called it yesterday in the title of its editorial, "Triumph of Expediency." This is an excellent statement of the case, one which says well things which need to be said on this topic. This bill passed, the agreement will begin operating on an ever-increasing scale in the months ahead, and we shall see whether economic principle has been outrun by "political expediency."

I ask unanimous consent that the editorial from the Washington Post of October 4 may appear in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TRIUMPH OF EXPEDIENCY

Although political expediency clearly triumphed over economic principle with the Senate passage of the United States-Canadian auto pact, the deed was not done without a struggle. The opposition led by Senators GORE and HARTKE came within four votes of persuading their colleagues to adopt an amendment that would have delayed action for 3 months pending a much-needed investigation by the Tariff Commission. And when one considers that the proponents of the auto pact included the White House, the four major automobile manufacturers, and the AFL–CIO, it is obvious that the defenders of liberal principles in international trade made a strong stand.

Rational self-interest can be invoked to explain why the Canadian Government, the U.S. auto manufacturers, and organized labor supported the auto pact. For the Canadian Government it was the promise of jobs and the maintenance of national prestige in the face of a growing xenophobia; for the auto manufacturers it was the lure of higher profits; and for organized labor, there was the promise—though a dubious one—of more jobs and an exceedingly generous program of "adjustment assistance" for workers who are displaced in the shuffle.

But one must delve more deeply to understand why President Johnson threw his weight behind the measure. Did the State Department really persuade him that the auto pact was the only alternative to a trade war with Canada? If so, the President was misled, for a trade "war" over the illegal Canadian tariff remission scheme would have placed an intolerable burden on Canadian consumers in the form of higher prices for imports. Or was the auto pact a quid pro quo for a political concession from the Pearson government? Perhaps these questions will one day be answered in an intriguing footnote to a history of our times.

The PRESIDING OFFICER. The question is on the agreeing to the conference report.

The report was agreed to.

ORDER FOR RECESS UNTIL 11 O'CLOCK A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I have discussed this matter with the distinguished minority leader, and I ask unanimous consent that when the Senate completes its business tonight it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOUGLAS. Mr. President, reserving the right to object, I would like the RECORD to show that the senior Senator from Illinois was in his seat ready to answer to the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY UNITY FOR CUBAN REFUGEES

Mr. KENNEDY of Massachusetts. Mr. President, on Sunday at the Statue of Liberty, President Johnson signed the Immigration and Nationality Act of 1965. In his remarks the President included a statement reaffirming our country's concern for the plight of the Cuban people, and our continued willingness to welcome those Cubans who seek refuge on our shores.

In the past few days the Department of State has been working through the Swiss Embassy in Havana to reach an agreement with the Cuban Government which would permit the free movement of certain refugees from Cuba to the United States. The President has rightfully requested the assistance of the Red Cross in processing this movement. And today he is requesting a supplemental appropriation of $12,600,000 to support this activity under the Cuban refugee program administered by the Department of Health, Education, and Welfare.

As chairman of the Judiciary Subcommittee on Refugees and Escapees, I want to commend the President for his action. I want to pledge my support for this great humanitarian effort.

I am thinking, Mr. President, of the many thousands of unaccompanied children who were sent to the United States by their parents in the early days of the Castro regime.

I am thinking of the many refugee families whose normal breadwinner, or whose mother, remains outside this country.

I am thinking of the thousands of political prisoners, many with close relatives in this country, who suffer harsh treatment in Cuba's jails.

If we have a reasonable assurance that a formula can be found to reunite refugee families, and to gain the release of political prisoners, no effort should be spared in pursuing this objective.

The Subcommittee on Refugees has long believed that our Government should seek a formula to facilitate family reunion among Cuban refugees in the United States. Very recently, in a report issued last June 25, the subcommittee recommended as follows:

> The subcommittee urges that appropriate officials in the executive branch give earnest attention to finding a formula which will restore family unity to Cubans in the United States—especially the thousands of unaccompanied children and the families whose normal breadwinner remains outside this country.

This recommendation, Mr. President, followed the subcommittee's intensive inquiry into the Cuban refugee problem, and the program to assist these refugees and encourage their resettlement throughout our country. Hearings conducted under the able chairmanship of Senator PHILIP A. HART have indicated that one of the impediments to the resettlement program and the adjustment of many Cubans to life in this country, has been the fact that many of the refugees are separated from immediate family in Cuba. Understandably, the situation has been especially difficult for the unaccompanied children, whose tragic plight claims the sympathy and concern of all Americans.

Mr. President, more than 250,000 Cuban refugees have been granted asylum in this country since Castro's rise to power in 1959. The influx was small in the early days of the Castro regime, but increased rapidly as the Cuban revolution gained momentum and its Communist totalitarian character emerged. For nearly 2 years, beginning in late 1960, arrivals in Miami numbered some 1,500 to 2,000 persons weekly. The flow was hampered only by the rupture in Cuban-American relations and the restrictions imposed by the Castro government.

The Cuban exodus ended abruptly during the missile crisis in October 1962. Since then, several hundred Cubans departed their homeland on ships returning to the United States following the delivery of medical supplies in connection with the agreement on prisoners. Others have entered the United States via third countries, chiefly Mexico and Spain. Still others have fled under adverse and hazardous conditions, using a small boat and the waters between Cuba and the United States as the gateway to freedom.

The American people, especially the citizens of Miami and Dade County, Fla., have responded generously to the needs of Cuban refugees. To assist this effort, in January 1961, President Kennedy established the Cuban refugee program, which is currently authorized by the Refugee and Migration Assistance Act of 1962.

The goal of this program has been the resettlement of refugees throughout our 50 States—for resettlement provides most Cubans with the opportunity to live reasonably normal and productive lives until conditions permit an assisted return to their homeland, or for those who wish it to elect American citizenship.

The Cuban refugee program is serving its purpose well. As the Refugee Subcommittee's recent report states:

> The program has been planned wisely, administered efficiently, and carried out effectively through the cooperative efforts of citizens in Government and the private sector.

I should add here, Mr. President, that the private voluntary agencies are providing the essential links between the program of Government and the humans in need. These agencies deserve high tribute for a job well done.

In announcing the Cuban refugee program early in his administration, President Kennedy said:

> I hope these measures will be understood as an immediate expression of the firm desire of the people of the United States to be of tangible assistance to refugees until such time as better circumstances enable them to return to their permanent homes in health, in confidence, and with unimpaired pride. This administration hopes the program will be considered first and foremost an essential humanitarian act by this country. We want it also to indicate the resolve of this Nation to help those in need who stand with the United States for personal freedom and against the Communist penetration of the Western Hemisphere.

It is in this spirit that I support the current effort of President Johnson.

Mr. President, the Cuban refugee problem has been a major concern of the Subcommittee on Refugees for the past few years. It has worked closely with the executive branch and the voluntary agencies to assist in finding reasonable and cooperative channels to render the refugees effective asylum. I want to express the subcommittee's continued concern in this matter, as we anticipate today an additional influx of refugees from Cuba.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 280 Leg.]

Bartlett	Hill	Morse
Bible	Inouye	Muskie
Burdick	Jordan, Idaho	Pastore
Church	Kennedy, Mass.	Proxmire
Clark	Long, La.	Randolph
Cotton	Magnuson	Ribicoff
Dodd	Mansfield	Russell, Ga.
Douglas	McGee	Sparkman
Ellender	McGovern	Tydings
Ervin	McIntyre	Yarborough
Fulbright	McNamara	

The PRESIDING OFFICER. A quorum is not present.

Mr. DOUGLAS. Mr. President, I would like the RECORD to show that the senior Senator from Illinois was in his seat and answered the quorum call.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, Mr. ALLOTT, Mr. BASS, Mr. BAYH, Mr. BENNETT, Mr. BOGGS, Mr. BYRD of West Virginia, Mr. CARLSON, Mr. DIRKSEN, Mr. FONG, Mr. GRUENING, Mr. HARRIS, Mr. HARTKE, Mr. HAYDEN, Mr. HICKENLOOPER, Mr. HOLLAND, Mr. HRUSKA, Mr. JACKSON, Mr. KUCHEL, Mr. MONDALE, Mr. MONRONEY, Mr. MORTON, Mr. MOSS, Mr. NELSON, Mrs. NEUBERGER, Mr. PELL, Mr. PROUTY, Mrs. SMITH, Mr. THURMOND, Mr. WILLIAMS of New Jersey, Mr. WILLIAMS of Delaware, and Mr. YOUNG of North Dakota entered the Chamber and answered to their names.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). A quorum is present.

REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 703(b) of the Labor-Management Reporting Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. FULBRIGHT].

Mr. FULBRIGHT. First, Mr. President, before I start my statement, I want to commend the majority leader for his very fine statement on his policy in the conduct of this debate. I am strongly in sympathy with what he said about our having had a long year this year—not only this year, but for the past 4 years we have been in almost continuous session. I think he was right when he said he would not proceed on the basis of physical strength to determine the outcome of this important legislation, and that to do so would be quite inappropriate. So I am happy that the majority leader has seen fit to announce his intention to have a test vote of the sentiment of the Senate at an early date.

I would not want to prophesy what the Senate will do, because what it has done on some occasions has surprised me; but I hope it will table the motion to take up the bill, and thereby facilitate the end of the session, and take the matter up next January. After all, it is not very long until next January.

Mr. President, the Senate has been asked to enact the bill H.R. 77 and thereby repeal section 14(b) of the National Labor Relations Act. This action was requested by President Johnson in his message of May 18, 1965.

Section 14(b) reads as follows:

> (b) Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or territorial law.

The President's request was considered in the House of Representatives and was passed by the House on July 28, 1965. H.R. 77 passed the House by a bare margin of 18 votes. A change of only 9 votes would have stopped this legislation in the House of Representatives—which clearly indicates that there was no overwhelming sentiment for it, even in the House of Representatives.

The President's request and H.R. 77 have been considered by the Senate Committee on Labor and Public Welfare. By a vote of 12 to 3 that committee has recommended that the Senate also pass H.R. 77.

Under existing Federal law, as quoted above, the several States of the Union have the power to adopt constitutional amendments and to enact laws which forbid the imposition of membership in a labor union as a condition of employment. According to the report—No. 697—of the Senate committee, the purpose of H.R. 77 is to restrict this State power and thereby purport to outlaw existing provisions of State constitutions and State laws. The committee report is quite candid in stating the desire for Federal preemption of the field of union security in collective-bargaining agreements.

The committee report is relatively silent on the subject of why this action is wise, is necessary, or is timely. One gets the impression that the committee has little enthusiasm for its recommended action. Only one reason is given in support of H.R. 77. As near as I can discover, it is urged that all States should have the same labor laws. This one reason is stated in three different versions as follows:

First. In the words of the majority report:

> The sole purpose of H.R. 77 to establish a uniform Federal rule governing union security agreements would result.

Second. In the words of President Johnson:

> Finally, with the hope of reducing conflicts in our national labor policy that for several years have divided Americans in various States, I recommend the repeal of section 14(b) of the Taft-Hartley Act, with such other technical changes as are made necessary by this action.

Third. In the words of Secretary Wirtz:

> The issue here is whether a uniform national labor policy should be established in this area (sec. 14(b)) as it exists in all other areas covered by the National Labor Relations Act. I urge that, whatever may have been the justification 18 years ago for letting the States experiment in this area, experience since that time has shown that there is no longer a good reason for this course of action.

Mr. President, these are the only arguments given by the committee in support of this controversial proposed change in public policy. The committee and Secretary Wirtz justify the proposal in the name of "uniformity." The President hopes that repeal of section 14(b) will reduce "conflicts which have divided Americans in various States."

Mr. ERVIN. Mr. President, I wonder if the Senator will yield for a question which is pertinent to the statement he has just made?

Mr. FULBRIGHT. I yield for a question only.

Mr. ERVIN. Is not a demand for uniformity a demand for conformity?

Mr. FULBRIGHT. That is the way I would interpret it.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that America has become great not because of the enforcement of the principle of conformity, but because it has recognized the right to disagree and to dissent?

Mr. FULBRIGHT. The Senator is correct. I shall come to that point later in my statement. One of the distinguishing characteristics of this country is the diversity among the people and the States. It is one reason why we have made the progress that we have made.

Mr. ERVIN. Is it not true that that principle is illustrated in this particular field by the fact that since the enactment of the Taft-Hartley Act in 1947 the States have indicated a diversity of opinion on this point, because 31 of the States have permitted compulsory unionism and 19 of the States have rejected the idea of compulsory unionism and have enacted State right-to-work laws?

Mr. FULBRIGHT. The Senator is quite correct.

Mr. ERVIN. Is it not true, as the Senator indicated a moment ago, that one of the great things in the life of this Nation, which has enabled this Nation to advance as it has, is the fact that each State can set up a separate laboratory and carry on an experiment, and if the experiment proves to be successful, other States of the Nation may follow it; to the contrary, if the experiment proves to be unsuccessful, that State, and that State alone, is affected by its disastrous consequences?

Mr. FULBRIGHT. The Senator is quite correct; and it is one of the main justifications for the principle of States rights that we have tried to preserve, within our capacity and power. There are certain areas, such as national defense, where that right cannot be exercised because of special conditions; but in general it is the principle on which our Nation has advanced as it has.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that the best definition in a nutshell of the fundamental purpose of the Constitution was that given by Chief Justice Salmon P. Chase in the case of Texas against White when he said:

> The Constitution in all its provisions looks to an indestructible union composed of indestructible States.

Is that not the best nutshell description that has ever been given of our Constitution?

Mr. FULBRIGHT. The Senator is correct. That is a most concise statement, and I hope we shall try to preserve it.

Mr. ERVIN. Does not H.R. 77 represent an effort to destroy what were supposed to be indestructible States by depriving them of the right to regulate labor relations within the boundaries of those States?

Mr. FULBRIGHT. I believe it does, and in an area which, it seems to me, is peculiarly suitable to the States is the power to regulate the relationship between the employer and labor. It seems

to me that there is no reason why there should be uniformity in this area.

Mr. ERVIN. Does the Senator from Arkansas agree with the Senator from North Carolina that the greatest protection we have for the preservation of liberty in this country is diffusion of power between the Federal Government, on the one hand, and the States on the other hand?

Mr. FULBRIGHT. I agree with the Senator.

Mr. ERVIN. Is it not true that pressure groups which command great political power can intimidate one legislative body into doing their will, whereas they cannot intimidate 51 legislative bodies into doing their will?

Mr. FULBRIGHT. I believe that the fact that they cannot do so is a great source of security for the country.

Mr. ERVIN. I thank the Senator. I hope the Senator will pardon my interruption. I thought these questions were relevant to the statement that he had made.

Mr. FULBRIGHT. I appreciate the observation of the Senator. He is always helpful. His observations are pertinent, and they go to the heart of the matter involved in this legislation.

The Senator has summed up correctly and appositively. To use the words of Chief Justice Chase, the Senator has pointed to the heart of the matter. Are we to have absolute uniformity in the area of labor relations, or are we not to have uniformity?

I believe that concentrates upon the essence of the problem, and that is the issue in connection with this legislation.

The committee and the Secretary seek to justify this in the name of uniformity. That is about the only reason they can give. The President said that he hopes that repeal of section 14(b) will reduce "conflicts which have divided Americans in various States."

Secretary Wirtz also sees no further need to let the States "experiment" in this area.

Before discussing the persuasiveness, or lack of it, in the reasons quoted above, I think it is significant to note other aspects of report No. 697. Mr. President, the report of the majority of the committee—12 members—is printed on 10 pages of a 46-page document.

Three and one-half pages are devoted to explanation of an amendment affecting those individuals who object to union membership because of their religious beliefs. One-half page out of this 46-page document states the purpose of the bill. Two pages discuss the "background of the bill." One page contains a decription of what is done by each section of the bill and quotes a three sentence endorsement by the Bureau of the Budget. Two and one-half pages reprint sections of existing law which would be changed by enactment of the bill. Approximately one-half page purports to state why H.R. 77 should be enacted. This is the content of the first 10 pages. One-half page undertakes to tell us why this is a good bill.

The remaining 36 pages of the report contain the individual views of Senator FANNIN—20 pages; Senator JAVITS—4 pages; Senator PROUTY—4 pages; Senator DOMINICK—5 pages; and Senator MURPHY—2 pages. In my experience, this is a very unusual document. The report to the Senate, on a subject of this significance, contains only one-half page of justification for action favored by 12 members. But individual views—differing or dissenting—require almost 72 times as much discussion. This hardly seems like a measure designed to reduce conflict, because there is plenty of conflict of views among members of the committee.

Mr. President, in all my years in the Senate, I can recall few issues which have aroused such conflicting and confused public discussion, or which promised to achieve such limited purposes, or which were supported by such weak and unconvincing arguments.

The majority of the committee and Secretary Wirtz plead for "uniformity" in national labor policy. But having made this plea, no further explanation is thought necessary. Why should we desire "uniformity" in this particular aspect of our national life? I have never thought "uniformity," as a doctrine or principle, a desirable goal of a society striving for greatness.

I never thought the Great Society, about which we hear statements, was to be characterized by uniformity. On the contrary we often read in the press about the ant-like existence of certain states in Asia, the implication being that this is contrary to our concept of good society. But by merely stating uniformity of laws as a desirable goal, the sponsors and the Secretary seem to think this is sufficient.

On the contrary, I had thought of "diversity" and originality as cornerstones of good public policy in this and in all other truly democratic countries.

Uniformity, by and large, in this area of relations is contrary to good public policy. Uniformity has always been frowned upon by our ancesters, and in this country, by the Fathers of this country, as a principle not to be applied in this area.

"Uniformity" is a principle usually frowned upon by the members of a free society. Uniformity is more characteristic of totalitarian societies.

There is sometimes a feeling that we always approach too much uniformity in some areas; that we all share the same beliefs and think alike.

Usually, the first act of a soldier, or a policeman, or a postman, upon completing his period of duty and as opportunity may permit, is to rid himself of "uniformity" by removing his "uniform." Why should the people of Arkansas be clothed in a uniform of labor policy cut to fit the desires of the people of New York, Michigan, or any other State? Why should the people of New York, or Michigan, or any other State be concerned about the labor policy adopted by the people of Arkansas? What do the citizens of any State gain by a Federal edict that all must wear the same uniform? Mr. President, I submit that neither the committee report nor the record of the committee hearings provide persuasive answers to these questions.

This prompts me to suggest that there is very little uniformity in other areas of Federal activity. I have in mind, particularly, the awarding of our gigantic defense contracts. According to statistics of the Department of Defense, there is considerable disparity, or "diversity," in the percentages of such contracts received by industries in the several States.

Mr. ERVIN. Mr. President, will the Senator yield at that point, before he proceeds to another question?

Mr. FULBRIGHT. I yield.

Mr. ERVIN. Does it not seem to the Senator from Arkansas that those who advocate uniformity and conformity should be great admirers of the Communist system?

Mr. FULBRIGHT. I should think they would be.

Mr. ERVIN. Do not Communist countries believe so much in uniformity and conformity that they enact laws under which there can be only one political party in existence in those countries?

Mr. FULBRIGHT. The Senator is correct. One of the criticisms that is made of such countries is that they are all alike.

Mr. ERVIN. Do not laws in Communist countries require everyone to come out on election day and vote in exactly the same way on the same ticket?

Mr. FULBRIGHT. Yes. They have only one choice.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that the worst thing that could happen to this country and to freedom would be to carry out the recommendation that all laws be made uniform and that everyone be compelled to conform to the views of those who might be in power?

Mr. FULBRIGHT. The Senator from North Carolina is absolutely correct.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that the strong bedrock upon which America rests and which accounts for its growth and greatness is that the American system has always contemplated that every man should carry his own sovereignty under his own hat?

Mr. FULBRIGHT. The Senator is correct. I believe that the originality we have allowed by a degree of diversity in this country accounts for most of the better qualities of our society.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that if we are to preserve basic philosophy which says that every American shall carry his own sovereignty under his own hat, we must allow him the right to join or to refuse to join a union?

Mr. FULBRIGHT. The Senator is absolutely correct. Certainly it is not the business of the Federal Government. The States should establish the law; that is within their jurisdiction. I agree that a State may enact a law affecting all of its citizens; but this is not an area in which the Federal Government should engage itself.

Mr. ERVIN. I take it that the Senator from Arkansas entertains that view because he believes that the people of a

State ought to be allowed, collectively, to carry their own sovereignty under their own hat.

Mr. FULBRIGHT. That is correct.

Mr. ERVIN. Is there anything in the right-to-work law of Arkansas or of any other State which would prevent a union from numbering among its dues-paying members all the workers in a particular craft or a particular bargaining unit whom it can persuade, by peaceful means, that union membership is good for them?

Mr. FULBRIGHT. There is not. Unions in those States may persuade all the workers in a plant to join unions voluntarily. Workers are not forced by law to join unions.

Mr. ERVIN. Does the Senator from Arkansas agree with the Senator from North Carolina that a labor union is, in essence, a voluntary organization?

Mr. FULBRIGHT. It ought to be a voluntary organization.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that there is no injustice in requiring a labor union to obtain its members in exactly the same way that churches and civic, fraternal, and political organizations obtain their members?

Mr. FULBRIGHT. By voluntary association; the Senator is quite correct.

Mr. ERVIN. Is the Senator from Arkansas aware of the argument that is usually made that a man who is not compelled to join a union against his will is a free rider?

Mr. FULBRIGHT. Yes: I know that that argument has been made.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that the records of the McClellan investigation reveal that in some cases where there was compulsory unionism, instead of there being free riders, some union members drafted into the unions were "taken for a ride?"

Mr. FULBRIGHT. That is correct. Men have sometimes been required to join unions when the leadership of the unions did not warrant membership at all. Leaders were corrupt, but the workers had no choice except to belong to the union that operated in a particular plant. That is the reverse side of the picture.

Mr. ERVIN. Will the Senator from Arkansas permit the Senator from North Carolina to read, as the basis for a question, certain facts which were revealed by the investigation conducted by the select committee under the chairmanship of the Senator's colleague from Arkansas [Mr. MCCLELLAN]?

Mr. FULBRIGHT. Without losing my right to the floor, I yield for that purpose.

Mr. ERVIN. I refer to the record of the United Textile Workers Union, which is mentioned on pages 90 and 91 of the book entitled "Crime Without Punishment," written by Senator JOHN L. MCCLELLAN. Speaking of the head of the union, Senator MCCLELLAN said:

> In Miami Beach, where he was wont to stay for long periods at the height of the season while his membership was working diligently in the factories in less temperate climes, he was a welcome guest at the Balmoral, the Eden Roc, the Roney Plaza, the Blue Bay Motel. His bills in 17 hotels during a 3-year period cost the union $86,364.46 in the membership's hard earned dues money.

Does the Senator from Arkansas believe that a man ought to be compelled to join a union and pay dues to a union when the head of the union embezzles or misapplies union funds in such fashion?

Mr. FULBRIGHT. Of course not.

Mr. ERVIN. Does not compulsory unionism require workers to join bad unions as well as to join good unions?

Mr. FULBRIGHT. That would be the effect; yes.

Mr. ERVIN. Is it not true that the effect of the repeal of section 14(b) of the Taft-Hartley Act, which allows States to enact right-to-work laws, would be that hundreds of thousands of American citizens would be compelled to join and pay dues to unions when the unions are operated for the selfish benefit of some of the officers rather than for the benefit of the rank-and-file members of the union?

Mr. FULBRIGHT. The Senator is quite correct. I know the Senator from North Carolina does not intend to say—and I do not—that all unions are not decent. There are all kinds of unions, just as there are all kinds of factories, plants, managements, politicians, and other groups. But to make membership in a union compulsory would, it seems to me, remove one of the principal incentives to have a well-operated union. If the union is well run and has honest, effective leadership, it will attract members voluntarily; the workers will want to join.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that in many cases the reason for the existence of good unions is that the unions are engaged in worthwhile enterprises for the benefit of their members?

Mr. FULBRIGHT. The Senator is correct.

Mr. ERVIN. Is not the Senator aware of the argument so often made that compulsory unionism is necessary for the security of the union?

Mr. FULBRIGHT. If that is said to be so, I do not agree with the statement. Arkansas is one of the States having right-to-work provisions in their constitution that has had exceptionally good leadership. I cannot remember in my own State any labor union scandal at all comparable to the activities which the Senator just read. One of the reasons is that the unions are well led. The unions in my State are reputable. The leaders and members are high-class citizens. So the unions appeal to the workers on their merits; the unions cannot sit back and have membership imposed upon them.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that the best security for good government and good unionism is the ability of citizens in the one instance and the ability of the union members in the other to repudiate their leadership, either in the legislative bodies or in the unions?

Mr. FULBRIGHT. The Senator is correct.

Mr. ERVIN. Are not men deprived of the ability to make their unions act for the benefit of their members if they are denied the right to withdraw from their union in case their officials refuse to do so?

Mr. FULBRIGHT. The Senator is correct. And the reverse of that is that it removes one of the principal incentives for the union leadership itself to behave properly.

Mr. ERVIN. I ask the Senator from Arkansas if he does not believe that a man makes a better Senator if he can be called upon by his constituents to give an account of his stewardship from time to time?

Mr. FULBRIGHT. That is a part of the theory and principle behind the procedure.

Mr. ERVIN. The power of union members to withdraw from the union makes it certain that union leadership will do right.

Mr. FULBRIGHT. It seems to me that is correct in a very decided way. I appreciate the comments of the Senator from North Carolina.

The Secretary recommends uniformity with regard to the labor laws. However, in many other activities there is no effort to achieve uniformity. I referred to the figures of the Department of Defense with regard to the great disparity in the percentage of contracts awarded to the industries in the several States. For example, during the three most recent fiscal periods for which statistics are available, the net value of military prime contracts of $10,000 or more which were awarded to firms in the State of Arkansas, were as follows:

	Million
Fiscal year 1962	$84.8
Fiscal year 1963	39.1
Fiscal year 1964	29.7

While the decrease in absolute value of these contracts might be explained in terms of shifting emphasis in types of procurement contracts, it certainly cannot be explained by a corresponding change in total contracts awarded. As a matter of fact, the Arkansas share of defense procurement in these 3 fiscal years was 0.3 percent in fiscal year 1962, 0.2 percent in fiscal year 1963, and 0.1 percent in fiscal year 1964.

At the other end of this diverse scale of participation in defense procurement were the States of California and New York.

California, during the fiscal year 1962, received 23.9 percent of the defense procurement, while the State of New York received 10.7 percent. Those two States received a third of all the prime contracts in defense. Why do we not apply uniformity in the awarding of defense contracts, if uniformity per se has the great value that the Secretary thinks it has? It seems to me that it would be even more advisable to treat all the States that pay taxes in this country in a more uniform manner in the distribution of the largess of the Defense Department. Nobody of whom I know—certainly neither the Secretary of Defense nor the Secretary of Labor—has

suggested that defense contracts should be awarded uniformly, although the Secretary of Labor states that the labor laws should be enacted uniformly.

In the fiscal year 1963, it was the same story. California received 23.1 percent and New York received 9.9 percent. I do not know what happened to New York. It seems to have fallen behind a little.

In the fiscal year 1964, California received 21 percent and New York received 10.2 percent.

California may have been affected by the increase in Texas or Louisiana. There semed to be a slight influence because of Texas coming into the picture in 1964. The State of California dropped 2 percent. However, the two States have a combined percentage of over 31 percent.

I hope that the people of Louisiana and Florida will not think I am overlooking them, but I did not want to delay the proceedings by reading all the figures.

I have heard no urging from the people of either California or Louisiana for uniformity in the distribution of the Federal largess. Yet they seem to be for uniformity in labor laws.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. LONG of Louisiana. If the Senator would check the figures for Louisiana, I believe he would find, if he were to look at the 10- or 20-year average, that Louisiana is doing poorly indeed in that category. It may be that we have been trailing in the last year or two. I did not know that the Senator had figures to show that Louisiana was doing well. Does California have that percentage of population?

Mr. FULBRIGHT. I would not think that it had 23 percent; no.

Mr. LONG of Louisiana. It is my impression that the figure is less than 10 percent.

Mr. FULBRIGHT. I believe the Senator is correct.

Mr. LONG of Louisiana. I believe that New York has approximately that percentage.

Mr. FULBRIGHT. New York has approximately 10 percent. However, California is gaining as the Senator knows. I have been told, and I believe I have read, that the estimate is that California is larger than New York. However it is not this much larger. How California accounts for 23 percent is beyond my comprehension. That would certainly violate Mr. Wirtz' idea of uniformity, and mine, too.

Mr. LONG of Louisiana. The Senator might be able to explain that disparity so far as New York is concerned, because it is not too much out of line. However, I regret to say that the figures for California are certainly out of line

Mr. FULBRIGHT. I believe so. They are quite out of line with the principle of uniformity. I am not advocating uniformity all around, but, to be consistent, if we want uniform labor laws, why not have uniformity in the awarding of Federal contracts? It seems to me that it would be more appropriate in a number of other fields also.

We are entering into an area of relationship between human beings which I think is in quite a different category from that of the distribution of public works and public funds.

I believe that if we wish to make comparisons, the Federal Government is better able to judge the question of distribution of public funds. This would almost reach the area of the relationship between husband and wife. It would not be quite the same. However, it involves a most personal kind of relationship. A man's relationship with his employer is a very personal thing. The government closest to that operation should be the one better suited to make a sound judgment as to the nature of that relationship.

We have not yet tried to intervene in the matter of marital laws dealing with divorce. I hope that we shall not. I grant that those laws are more restrictive in some States and that the laws dealing with divorce are not as good as they should be. However, the situation dealing with divorce is not suitable for Federal legislation. It ought to be handled by the level of government nearest to the people involved. That would be the State government.

The matter of the relationship between the employer and employee, it seems to me, approaches this kind of relationship and can better be dealt with purely as a matter of good sense and good judgment concerning the nature and conditions under which the work is to be done. This is a field which is a most important thing to most men, next to their family life.

Mr. President, this is certainly not a record of uniform participation under the Federal program for defense procurement. I mention this aspect of Federal "diversity" merely to illustrate the need for reflection about a proposition for public policy advanced in the name of "uniformity" among the States.

That is the principal reason given in the committee report by the Secretary of Labor for this particular bill.

It could be pointed out by others that Arkansas receives Federal support for its cotton farmers far in excess of the support given cotton farmers in Minnesota. But the farmers in Minnesota receive Federal support for their wheat and their dairy products far in excess of similar support in Arkansas. Such comparisons serve to further illustrate that Federal policies are not uniform in their effects upon the several States of the Union.

They are in accordance with the needs of the subject matter in these areas, and no one in his right mind would recommend that we have the same kind of results in these areas for each State.

I submit, Mr. President, that to argue for repeal of section 14(b) of the National Labor Relations Act on grounds of the necessity for uniformity is to argue for the obliteration of State boundary lines for no better reason than the fact that the States have different names. Such an argument reveals a total insensitivity to the foundation of our federalism, and to the individual differences which distinguish our democracy.

Secretary Wirtz also speaks about "experiment" by the States in the area of union security agreements. He says by implication, in effect, that their course was justified because of a need for experience, but he says there is no longer such a need. That would seem to assume that we have reached such perfection that we no longer need experiment and we no longer need consider that there may be better ways or better relationships in this area, which assumption our experience does not by any means support.

In the general election held on November 7, 1944, the people of Arkansas approved amendment No. 34 to the State constitution. This amendment has remained undisturbed for almost 21 years. Arkansas has exercised its legitimate power to legislate. This legislation has not only endured, it has aroused very little litigation and a minimum of controversy. If this has been an experiment, it certainly has been a good one, and beneficial to the people of my State, as an example of proper exercise of the State's rights under our constitution, and, in the words of Secretary Wirtz, "A good experiment." But I think they should retain the right to experiment further any time they choose to do so, seeking ways to improve their local law. One of the reasons why they have not changed it is that it has been quite satisfactory, as I think I can demonstrate later in my remarks.

Mr. President, for the information of the Senate, I will read the text of amendment No. 34 to the Arkansas State constitution. It is very short:

SECTION 1. No person shall be denied employment because of membership in or affiliation with or resignation from a labor union, because of refusal to join or affiliate with a labor union; nor shall any corporation or individual or association of any kind enter into any contract, written or oral, to exclude from employment members of a labor union or persons who refuse to join a labor union, or because of resignation from a labor union; nor shall any person against his will be compelled to pay dues to any labor organization as a prerequisite to or condition of employment.

SEC. 2. The General Assembly shall have power to enforce this article by appropriate legislation.

This amendment was subsequently implemented by the Arkansas General Assembly—act 101 of 1947.

A reference to "experimentation" appears in a legislative note on Arkansas Act 101 of 1947 written by Joe E. Covington, who was then a member of the faculty of the University of Arkansas Law School and since that time has become dean of the University of Missouri Law School. This note appears in the text of a very fine law review article by James E. Youngdahl—Arkansas Law Review & Bar Association Journal, fall 1960. This article is included in the record of hearings by the Committee on Labor and Public Welfare, and begins on page 222. Dean Covington's note reads—I shall read just a part of the article, as follows:

A strong argument favoring the validity of the legislation is found in the idea of permitting legislatures to experiment in social control and by such experimentation finally to achieve ends that will be for the

good of all. If the legislation proves unfortunate, this will manifest itself in a relatively short time and the error can be corrected in the same manner, by legislation. One of the latest authoritative books on labor law * * * advocates the view of permitting the States to regulate labor by legislation and thus by the trial and error method search for a solution to one of the most perplexing problems of the modern age.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Arkansas Law Review & Bar Association Journal, fall 1960]

THIRTEEN YEARS OF THE "RIGHT TO WORK" IN ARKANSAS

(By James E. Youngdahl) *

I. INTRODUCTION

In 1947 Dean Joe E. Covington concluded a legislative note on Arkansas Act 101 of 1947 with the following language:

"A strong argument favoring the validity of the legislation is found in the idea of permitting legislatures to experiment in social control and by such experimentation finally to achieve ends that will be for the good of all. If the legislation proves unfortunate, this will manifest itself in a relatively short time and the error can be corrected in the same manner, by legislation. One of the latest authoritative books on labor law * * * advocates the view of permitting the States to regulate labor by legislation and thus by the trial-and-error method search for a solution to one of the most perplexing problems of the modern age." [1]

Thirteen years later the question arises as to whether the Arkansas Freedom To Work Act [2] has proven unfortunate or has served as a solution to one of the most perplexing problems of the modern age. The ordinary answer to this question is today as dependent on economic bias as it was in 1947.[3] The purpose of the instant discussion, however, is to survey the recorded results of the "right to work" [4] principle in Arkansas, thereby to gather together raw data for a judgment on whether or not this legislative experiment has been successful.

II. DEVELOPMENT OF THE LAW

The concept of union security, achieved by restricting employment in a given economic unit to members of a labor organization, has a genesis in this country predating the founding revolution.[5] Individual employer resistance to this concept has corresponding origins.[6] The first statutory provision for the right-to-work principle was enacted in an amendment to the Florida Constitution in 1944.[7]

Arkansas was a close second in the trend which now affects labor-management relations in 19 States.[8] On November 4, 1944, 54.6 percent of the ballots on the issue [9] were cast for amendment 34 to the Arkansas constitution. Section 1 of the amendment prohibits membership or nonmembership in a labor organization or the payment of union dues as a condition of employment, and bans contracts with such provisions. Section 2 authorizes the legislature to enforce the amendment with appropriate statutes.

Pursuant to the popular mandate, the legislature adopted Act 101 of 1947, the Freedom To Work Act.[10] The first section of the new legislation outlines the public policy of the State in terms of amendment 34. The second forbids denial of employment because of membership or nonmembership in a labor organization, or making the payment of money to a union a condition of employment. Contracts which exclude from employment members, nonmembers, or persons resigned or expelled from labor organizations are made illegal by section 3.

The fourth section of the act establishes the penalties for violations of a particular interdiction: entering into forbidden contracts. A fine ranging between $100 and $5,000 is established, and applicable separately to each day the contract is in effect. Provision is made for venue in criminal prosecutions. The final section makes the act inapplicable to contracts existing at the time of its passage.[11]

The effects of the right-to-work amendment and statute have been evidenced in 10 cases in the Arkansas Supreme Court, 3 actions in Arkansas Federal district courts, 1 published opinion of an attorney general, and apparently no prosecutions under the criminal sanctions of the law.

The first mention of the new Arkansas restrictions on collective bargaining was made in a 1949 decision.[12] The suit was for the enforcement of a union shop agreement by two officers of a local union for the benefit of the membership. After a demurrer had been sustained by the trial judge on the ground of incapacity of the plaintiffs, the supreme court reversed, finding no defect in the capacity of the parties. In dissenting opinions, two judges commented that since the contract sought to be enforced was itself illegal under amendment 34 and act 101 of 1947, it was an idle gesture to remand a case with no cause of action to try.[13]

The next eight Arkansas Supreme Court decisions in the field concerned the effect of the right-to-work law on picketing. A hint of what was to come was included in dicta in *Local No. 802* v. *Asimos*.[14] A sweeping injunction issued by a lower court was modified to restrain only violent and obstructive picketing. The court commented that since a closed shop had never been mentioned by the union negotiators, a basis for the broad restraint could not be found in amendment 34.[15]

In the same term, the court showed what its *Asimos* suggestion could mean. In *Self* v. *Taylor* [16] an electrical contractor brought suit to enjoin picketing. A prior collective-bargaining agreement had included a union security provision, entered into before the adoption of act 101 of 1947. In 1949 negotiations, the union demanded the same clause, apparently in violation of the new statute. After some initial bargaining skirmishes, the union withdrew its demand for the inclusion of a union shop in the express contract. In its stead, a proposal was submitted allowing either party to cancel the contract within 60 days. It was testified that the union informed the employer that it would exercise the right of cancellation unless nonunion workers were discharged.

Judge Dunaway, for the majority, held that the injunction should be maintained. Pointing out that the contract demanded through picketing was designed indirectly to achieve an illegal result, the court refused to "blind itself to reality." [17] Judge Leflar, dissenting, expressed a belief that the inferences adopted in the majority opinion were both tenuous and dangerous.

Five years later the *Self* v. *Taylor* case was reopened.[18] Again, the majority refused to allow the union to picket, in view of a finding that no lawful contract had yet been proposed by the union to the employer. On this occasion, three judges dissented. In protesting the unequal bargaining position in which the union was placed by the majority decision, Judge George Rose Smith remarked on amendment 34: "I am unable to believe that a constitutional provision which was meant to encourage and to protect diversity of belief can properly be used as a means of compelling uniformity of thought." [19]

In the interim between the two *Self* v. *Taylor* decisions, two cases involving the right-to-work laws were decided by the Arkansas tribunal. In one,[20] an allegation of an amendment 34 violation was not passed on by the supreme court; an injunction issued by a chancellor was reversed solely because of a defect of parties defendant. In

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[1] Covington, "Freedom To Work" Act, 1 Ark. L. Rev. 204, 209 (1947).

[2] Ark. Stat. Ann. secs. 81-201 to 205 (Repl. vol. 1960).

[3] Compare National Right To Work Committee, "Do Right To Work Laws Hurt or Help the Economy?" (1952) with AFL-CIO, "Union Security: The Case Against the Right To Work Laws" (1958).

[4] A vexing preliminary problem is in the use of the term "right to work," unquestionably the acceptable public denomination for laws which forbid making union membership a condition of employment. Despite the use of the term for the sake of convenience, it must be remembered that it is not a careful expression of the legal or economic principle involved. See *Idaho State Federation of Labor (AFL)* v. *Smylie*, 272 P. 2d 707 (Ida. 1954), where the Supreme Court of Idaho refused to allow the ballot title of "right to work initiative proposal" to be submitted to the voters; and *Moore* v. *Hall*, 316 S. W. 2d 207 (Ark. 1958), where the popular name "Freedom to hire" was held to be misleading and partisan on a proposal which would have restricted the subject matter of bargaining. An arbitrator has commented, in Cutler-Hammer, Inc., 17 LRRM 2769 (Meyer 1946): "It is our opinion that the freedom to work, like all freedoms, may properly be qualified to the extent necessary for the welfare of the greatest number and we believe that when a union represents a large majority of the employees within the bargaining unit, when it is democratic in its practices, and when its history is one of stability and responsibility, if the representatives of the majority of the employees request it, it is fair to both the employer and the employees that the employees' freedom to work be qualified to the extent of requiring them to belong to a union."

[5] Skinner, "Legal and Historical Background of the Right-to-Work Dispute," 9 Lab. L. Jour. 411 (1958); Pollitt, "Right to Work Law Issues: An Evidentiary Approach," 37 No. Car. L. Rev. 233 (1959).

[6] Ibid.

[7] Florida Constitution, Declaration of Rights, sec. 12 (1959).

[8] Note. 81 Mon. Lab. Rev. 1380, 1381 (1958); Pollitt, supra note 5, at 233. See also Millis & Brown, "From the Wagner Act to Taft-Hartley", 326-39 (1950).

[9] For 105,300; against 87,652. See also *Withee* v. *Hall*, 217 Ark. 644, 232 S. W. 2d 827 (1950).

[10] *Supra*, note 2. The act was approved on February 19, 1947. Note, 19 LRRM 3029 (1947).

[11] See Covington, supra, note 1 for more detailed analysis of the specific statutory language.

[12] *Smith* v. *Arkansas Motor Freight Lines, Inc.*, 214 Ark. 553, 217 S.W. 2d 249 (1949).

[13] 214 Ark. at 553, 217 S.W. 2d at 250 (1949).

[14] 216 Ark. 694, 227 S.W. 2d 154 (1950).

[15] 216 Ark. at 702, 227 S.W. 2d at 158 (1950).

[16] 217 Ark. 953, 235 S.W. 2d 45 (1950).

[17] 217 Ark. at 963. 235 S.W. 2d at 50 (1950). Compare *Lion Oil Co.* v. *Marsh*, 220 Ark. 678, 685, 249 S.W. 2d 569, 572 (1952).

[18] 224 Ark. 524, 275 S.W. 2d 21 (1955).

[19] 224 Ark. at 528, 275 S.W. 2d at 23 (1955).

[20] *Bunch* v. *Launius*, 222 Ark. 760, 262 S.W. 2d 461 (1953).

the other,[21] however, a major decision again stopped picketing found to be illegal under the union security restrictions.

In negotiations between an automobile distributor and the authorized representative of its employees, the union proposed a contract article that "the refusal of any or all employees who are members of the union to work with an employee who is not a member will not be considered as a violation of this agreement." In return, the employer demanded an article embodying the concepts of amendment 34, act 101 of 1947, and act 193 of 1943.[22] Negotiations subsequently broke down, and the union began a strike. Prior to the strike, it contended, the employees abandoned their demand for a closed shop contract. The chancellor found that such demand actually had not been withdrawn; he enjoined all picketing because of this illegal purpose. In *International Association of Machinists, AFL* v. *Goff-McNair Motor Co.*[23] the State supreme court affirmed the injunction. In answer to the contention of the union that only picketing for a closed shop should be enjoined, the court stated that reapplication to the chancellor for appropriate modification may be made when subsequent legitimate differences do not involve the closed shop demand, a questionable observation in view of the second *Self* v. *Taylor* holding several months later.

The right-to-work law issue was not reached by the court in the next picketing decision, although it had been a ground for the complaint and decree in the lower court.[24] The complaining employer had alleged that the union was attempting to force subletting of construction jobs to contractors employing union labor, contrary to the law and public policy of the State as expressed in amendment 34 and act 101 of 1947. The court upheld the injunction on the simple ground that the picketing was too broad and in too general a locality[25] expressly avoiding the question whether or not the right-to-work restrictions were violated.

Amendment 34 again was squarely involved in *Burgess* v. *Daniel Plumbing Co.*[26] Among several reasons attributed to picketing of a building construction contractor was a refusal by the employer to hire union labor. The supreme court upheld an injunction. It concluded that the weight of the evidence sustained the view of the chancellor that the purpose of the picketing was for union security violative of amendment 34. For the majority, Judge Ward commented that since no other reasons for the picketing had been established, he could not believe that the activity under the direction of able and experienced union representatives could have been senseless. Speaking for two dissenters, Judge Robinson found the conclusion that the picketing was for a closed shop to be pure speculation, and an insufficient ground for interfering with constitutionally protected free speech.[27]

In contrast to the trend since 1950, the Arkansas court upheld the right of a union to picket in *Self* v. *Wisener*, decided in 1956.[28] The chancellor had enjoined all picketing on the grounds that its purpose had been a contract in violation of amendment 34, but the high court concluded that the weight of the evidence did not support this charge. On the contrary, a unanimous court found picketing in protest against the payment of substandard wages permissible under Arkansas law.

Similarly, in the 1958 decision of *McDaniel* v. *Tolbert*[29] the Supreme Court rejected a rationale which had been basic to *Self* v. *Taylor* and *Burgess* v. *Daniel Plumbing Co.* by declining to infer a closed shop purpose in order to stop all picketing. The complaint had alleged both picketing in an unlawful manner and for the purpose made unlawful by the anti-closed shop restrictions. The chancellor was affirmed in his decision to reject these allegations and allow some picketing to continue.

At the end of 1958 the last and one of the most interesting decisions of the Arkansas court concerning the right-to-work law was handed down. In *Potts* v. *Hay*,[30] a labor organization took advantage of amendment No. 34 for the first time. By Arkansas Act 30 of 1957, the legislature had provided that any person on the police force a municipality must be dismissed unless that person severs connections with a labor union. In an action to enjoin enforcement of the statute because of inconsistency with the right-to-work amendment, the supreme court affirmed a declaration of unconstitutionality by the chancellor. It was concluded without dissent:

"We perceive no compelling reason to believe that the people intended to exclude public employment from the positive, unequivocal command of amendment No. 34 * * *. The suggestion made by the appellants, that the public interest will suffer if policemen are allowed to exert "union pressure" upon the city, fails to take into account the relatively slight extent to which amendmen No. 34 restricts the power of the legislature. The pertinent clause of the amendment deals only with the denial of employment on the basis of union membership. Nothing is said one way or the other on the subject of union pressure. Left untouched, for example, is the matter of striking against the government * * *. We are not convinced that the bare fact of union membership on the part of police officers presents such a threat to the public welfare that an implied exception must be written into the unqualified language of amendment No. 34."[31]

In approximately the same decade, three cases involving the Arkansas union security restrictions were decided by Federal district courts sitting in the State. In *Lewis* v. *Jackson & Squires, Inc.*[32] the trustees of a mine workers union welfare fund sued to recover unpaid sums from certain coal mine operators in the State. The welfare fund agreement was included in a national settlement of a coal labor dispute. But the settlement also required all employees of the employers to become and remain members of the union. Judge Miller dismissed the suit, pointing out that Arkansas law forbids recover on invalid contracts. The welfare fund obligation was not severable, he held, as the instrument described itself as "integrated," and part of the consideration for the promise sued on was held illegal under the Arkansas right-to-work provisions.

Ten years later the *Jackson & Squires* situation was presented to Judge Miller again, but with one important variation. A national coal agreement including a union security provision was again the basis of contractual rights alleged by welfare fund trustees *in Lewis* v. *Hixon Coal Co.*[33] But the contract required membership in the union only "to the extent and in the manner permitted by law." This saving clause was sufficient to preserve the right of the trustees to recover on the contract. The court commented, however, that if extrinsic activities showed a violation of the right to vote to work principle, an appropriate remedy might lie through actions for injunctions or damages.

The invalidity of a labor management agreement under amendment 34 was also asserted as a defense in 1953 in *Ketcher* v. *Sheet Metal Workers Intl. Assn.*[34] But Judge Lemley found no such invalidity on the face of the contract and nothing in the record before him to suggest the *Self* v. *Taylor* inferences. The union had agreed to furnish qualified workers at the request of the employer, and the employer promised to cover all of his employees with the wages and working conditions negotiated. The first element is not per se a violation of the right to work principle, the judge ruled, and the second is actually obligatory under the terms of the National Labor Relations Act.[35]

A further recorded legal interpretation of the Arkansas right to work provisions was given in 1950 by Attorney General Ike Murry.[36] A request had been made for an opinion on the validity of an agreement between an employer and a union to put strike replacements at the bottom of a seniority list. No inconsistency with amendment 34 or Act 101 of 1947 was found. The opinion stated that strikers return as old employees, not new ones; they merely are having their old service recognized by a favored position on the seniority list.

A striking aspect of this review of cases involving the two right-to-work provisions is that no decision involves the penalties provided by the act itself. The question arises whether or not any attempt has been made to impose the fines which the 1947 legislation allows. The answer seems to be that no cases on the penalties set out in the legislation have ever reached the case reports because no such action has been taken by the prosecuting attorneys in the 18 judicial districts of the State.

During the summer of 1960, this writer addressed an inquiry to each prosecutor for information on the enforcement of the right-to-work law in his district. Replies were received from 17 of the 18 district officials, who would be in charge of such enforcement. The answers ranged from absolute assurances to general surmise that the penalties of Act 101 of 1947 had never been applied in the respective areas. Typical of these replies are the following quotations:

"As I recall there have been no prosecutions under this act since I have been in office nor do I know of any personally since this act was adopted in 1947. There have been no fines assessed or charges filed under this act during this time to my knowledge. Whether the act may have been used in labor negotiations, I cannot answer.

"I am reasonably certain that there has been no prosecution in this district under Act 101 of 1947. This is understandable in

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[21] *International Association of Machinists, AFL* v. *Goff-McNair Motor Co.*, 223 Ark. 30, 264 S.W. 2d 48 (1954).

[22] The antiviolence law, Ark. Stat. Ann. §§ 81–206 to 209 (Repl. vol. 1960).

[23] Supra, note 21.

[24] *International Brotherhood of Electrical Workers* v. *Broadmoor Builders, Inc.*, 225 Ark. 260, 280 S.W. 2d 898 (1955).

[25] A very questionable basis for State court jurisdiction. See discussion infra, at notes 43, 57: Comment, "Federal Limitations on State Jurisdiction Over Labor-Management Relations," 12 Ark. L. Rev. 354, 375–376 (1958).

[26] 225 Ark. 792, 285 S.W. 2d 517 (1956).

[27] Compare *Thornhill* v. *Alabama*, 310 U.S. 88 (1940); *Chauffeurs Local 795* v. *Newell*, 356 U.S. 341 (1958). But see *International Brotherhood of Teamsters* v. *Vogt, Inc.*, 354 U.S. 284 (1957); *Local 10, United Association of Plumbers* v. *Graham*, 345 U.S. 192 (1953).

[28] 226 Ark. 58, 287 S.W. 2d 899 (1956).

[29] 228 Ark. 555, 309 S.W. 2d 326 (1958).

[30] 318 S.W. 2d 826 (Ark. 1958).

[31] 318 S.W. 2d at 829.

[32] 89 F. Supp. 354 (W.D. Ark. 1949).

[33] 174 F. Supp. 241 (W.D. Ark. 1959).

[34] 115 F. Supp. 802 (E.D. Ark. 1953).

[35] See Sections 8(b)(2) and 9(a) of the amended act, 29 U.S.C. (141–187 (Supp. 1959)).

[36] Arkansas Department of Labor File No. 104, 28 LRRM 88 (1950).

view of the fact that this district is rural and does not have much industry".[37]

A further aspect of note to these replies is that at least two of them mistakenly referred to prosecution under a different act, the Arkansas antiviolence law.[38] One reference to prosecution under "this statute" was to an assault on a picket line, and another was to an unsuccessful trial for strike violence. These instances of mistaken identity emphasize the lack of familiarity of Arkansas officials with the original and sole penalties included in the language of the act in question.

III. CONSTITUTIONAL PROBLEMS

The right to work principle has been attacked under the most common constitutional contentions and been sustained. In *Lincoln Federal Labor Union* v. *Northwestern Iron Co.*,[39] Nebraska and North Carolina right-to-work laws very similar to the Arkansas provisions were challenged to the U.S. Supreme Court by labor groups. The Court, speaking through Mr. Justice Black, found no violation of the freedoms of speech, assembly, or petition. The suggestion that the laws impair the obligation of contracts was found so clearly without merit as not to require rebuttal. As to equal protection of the laws, the stated purpose of the statutes includes equal opportunity for employment for both union and nonunion workers. Finally, the Court found due process of law arguments inapposite in view of its prior rejection of the *"Allgeyer-Lochner-Adair-Cappage* constitutional doctrine";[40] the due process clause is no longer to be construed so as to suppress attempts by State legislatures to eliminate industrial conditions regarded as offensive to the public welfare.

What on the surface is a more serious problem, at least as to the equal protection argument, is where the State legislation bars as a condition of employment only union membership without mentioning the job security of the members of labor organizations. A possible solution to this problem was found in *AFL* v. *American Sash Co.*,[41] decided on the same day as *Lincoln Federal Labor Union*. With one dissent and one concurrence, an Arizona right-to-work law which aided only nonmembers of unions was upheld. The Court was able to find, in other State laws and policies, protections for union members of a nature sufficient to save the statute from invalidation under an equal protection attack. Presumably, where both aspects were applied,[42] these holdings would be continued.

A most active constitutional issue concerns the scope of State regulation of union security in the face of the supremacy clause of the U.S. Constitution.[43] The basic doctrine in the law of labor-management relations during the past decade has been that Congress has taken over the field; neither State courts nor State legislatures have jurisdiction to operate in the preempted area.[44]

The preemption doctrine in labor law originated in about 1942;[45] and in a 1946 opinion[46] there were indications that the Supreme Court was going to invalidate right-to-work provisions in State constitutions or statutes.[47] The maintenance of some State restrictions on union security was assured, however, by the passage of the Taft-Hartley Act[48] in 1947. Section 14(b) of the amended National Labor Relations Act now reads:

"Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law."[49]

Section 14(b) has become the most controversial single section of a controversial statute in a controversial field. Confirmation of the conclusion that States are without jurisdiction to enact right-to-work laws in the absence of express 14(b) language was received when the States were denied power to apply union security restrictions to those transportation workers not covered by the National Labor Relations Act, in *Railway Employees' Dept. AFL* v. *Hanson*.[50]

The preemption problem in the right-to-work law area concerns the scope of section 14(b); presumably, anything it does not allow the States to do cannot be done. There are two serious aspects to the issue in the development to right-to-work law in Arkansas. The first relates to express portions of the State amendment and statute. The second involves the primary applications of the law which the Arkansas Supreme Court has made in suits for injunctions against picketing.

Amendment 34 provides that no person shall be compelled to pay dues to any labor organization as a prerequisite to or condition of employment. The statute expands this concept somewhat by including "any monetary consideration" in addition to "dues."[51] The question of payment of monetary consideration without union membership as a condition of employment has come into recent prominence because of the rise of the "agency shop."[52] Under the agency shop principle, a union may charge a fee equivalent to union dues for acting as a bargaining agent for employees who do not belong to the union. It is argued that since the union must represent all employees in the bargaining unit, under mandates of the National Labor Relations Act,[53] it is entitled to compensation for its service from those who choose not to belong to the organization itself.[54]

Reaction to the agency shop has varied.[55] Clearly the device is invalid in Arkansas unless the monetary consideration and dues section of the Arkansas law are unconstitutional. Federal preemption of union dues regulation can be inferred from the extensive reference to these payments in several national labor statutes.[56] Decisional material on the application of the preemption doctrine to this aspect of labor management relations is inconclusive at the present time.[57] It will be necessary for the Supreme Court, or Congress itself, to supply the definitive answer.

The second serious problem of constitutionality, also under the preemption doctrine, concerns the remedies applies by the State courts. The principal consideration by the Arkansas courts of amendment 34 and act 101 of 1947 has been in cases involving injunctions against picketing.[58] Yet there is strong reason to believe that these injunctions are unwarranted invasions into the area taken over by the Federal Government.

The U.S. Supreme Court has said repeatedly that a State court does not have jurisdiction to enjoin picketing which does not involve violence or related illegal activity.[59] The inviolate area for State tribunals appears to include attempted restriction of concerted union activity which has as its object a union security clause that is invalid under State law. In *Local 429, International Brotherhood of Electrical Workers, AFL* v. *Farnsworth & Chambers Co.*,[60] picketing for what was found to be a purpose to violate a State right-to-work statute was enjoined by the Tennessee State courts, with

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[37] The 17 replies from the prosecuting attorneys are on file with the Librarian, School of Law, University of Arkansas, Fayetteville.

[38] Supra, note 22.

[39] 335 U.S. 525 (1949).

[40] 335 U.S. at 535.

[41] 335 U.S. 538 (1949).

[42] An application indicated in Arkansas by *Potts* v. *Hay*, supra, note 28. See Moran, "Legal Control of Business in Arkansas," 5 Ark. L. Rev. 137, 147 (1951), where the author concludes that "yellow dog" contracts by which the employee agrees not to join a union in exchange for his employment are outlawed by the right to work legislation. Suits for damages by discharged employees are also a possibility. *Willard* v. *Huffman*, 250 N.C. 396, 109 S.E. 2d 233 (1959).

[43] Comment, "Federal Limitations on State Jurisdiction Over Labor-Management Relations," 12 Ark L. Rev. 354 (1958).

[44] *Garner* v. *Teamsters Union, AFL*, 346 U.S. 485 (1953); San Diego Bldg. *Trades Council* v. *Garmon*, 359 U.S. 236 (1959).

[45] *Allen-Bradley Local 1111, United Electrical Workers* v. *Wisconsin Employment Relations Board*, 315 U.S. 740 (1942).

[46] *AFL* v. *Watson*, 327 U.S. 582 (1956).

[47] See Feinsinger, "Federal-State Relations Under the Taft-Hartley Act," 1 New York University Conference on Labor, 463, 487–91 (1948).

[48] Stat. 136 (1947).

[49] 29 U.S.C. sec. 164(b) (Supp. 1959).

[50] 351 U.S. 225 (1956). An important aspect of the Hanson problem expressly avoided in the 1956 cases due for decision in the 1960–61 term. *International Association of Machinsts* v. *Street*, 46 LRRM 2459 (1960).

[51] Ark. Stat. Ann. sec. 81–202 (Repl. vol. 1960).

[52] Note, 45 LRRM 104 (1960).

[53] Supra, note 33.

[54] But cf. Hughes Tool Co., 104 N.L.R.B. 318 (1953). On the other side of the coin, the NLRB will not allow an employer to discharge an employee who tenders the amount of union dues, but refuses to become an actual member of the labor organization. *Union Starch Co.* v. *NLRB*, 186 F. 2d 1008 (7th Cir. 1951), cert. den. 342 U.S. 815 (1951). The Board is now reconsidering its position on the agency shop issue. See note, 46 LRR 440 (Oct. 3, 1960).

[55] Compare *Meade Electric Co.* v. *Hagberg*, 159 N.E. 2d 408 (Ind. Ct. App. 1959) (Indiana right-to-work law merely prohibits conduct relating to membership in a union, not prohibition against payment of fee nor charges) with opinion of Nebraska Attorney General Beck, 45 LRRM 104 (1960) (agency shop not illegal in Nebraska but may not be used as a basis for discharging or denying employment to any individual).

[56] E.g., section 8(b)(5), National Labor Relations Act; Local 611, International Brotherhood of Teamsters (St. Louis Bakery Employers Labor Council), 125 N.L.R.B. 1246 (1959).

[57] In *Utah* v. *Montgomery Ward & Co.*, 233 P. 2d 685 (Utah 1951), cert. den. 342 U.S. 869 (1951), the Utah court found a "sharp contrast" between leaving to the States legislation on union security agreements but not checkoff dues. "When Congress has by a sweeping prohibition banned the payment to or receipt by an employee representative of any money or thing of value where the payment is made by an employer, subject only to certain exceptions, there is no room for the States to narrow or enlarge upon the exceptions without conflicting with the policy of Congress," 233 P. 2d at 689. But cf. *Shine* v. *John Hancock Mutual Life Ins. Co.*, 68 A. 2d 369 (R.I. 1949).

[58] See Arkansas cases at notes 14–27, supra. In *Local 324, International Brotherhood of Electrical Workers, AFL* v. *Upshur-Rural Electric Cooperative Corp.*, 33 LRRM 2067 (Tex. Ct. Civ. App. 1953), a Texas court commented that where there is no penalty or remedial procedures set out in the statute, an invasion of rights protected by the right-to-work law may be protected by injunction.

[59] *Youngdahl* v. *Rainfair, Inc.*, 355 U.S. 131 (1957); *Capital Service, Inc.* v. *NLRB*, 347 U.S. 501 (1954).

[60] 353 U.S. 960 (1957).

the remark that States are free to pursue their own policies restricting union security agreements.[61] The U.S. Supreme Court reversed, with a memorandum opinion citing two of the principal preemption cases.[62] Other high court decisions have been consistent with the *Farnsworth & Chambers* rule.[63]

The contrary argument, of course, is that since the States have been allowed to act in the field of union security by section 14(b), such action would be ineffectual without full control over that field.[64] The language of the Federal exception, however, appears considerably more narrow that the broad sweep of right-to-work remedies assumed by the Arkansas Supreme Court.[65] It can be assumed that this issue will be presented to the Arkansas tribunal again, and that if the issue is properly framed, the *Farnsworth & Chambers* rule should prevail.

IV. CONCLUSION

As suggested in the introduction, most "conclusions" about the Arkansas right-to-work law are expressed in terms of economic bias.[66] It is difficult to find the legal scholar who comments dispassionately on the success of the experiment described by Dean Covington in his 1947 article.

There are some economic observations which might be helpful for judgment on the effectiveness of these measures in Arkansas. It has been demonstrated that work stoppages due to labor disputes have occurred with about the same frequency in the years after 1947 as during a comparable prior period.[67] There is little or no evidence that right-to-work laws have appreciably increased industrialization; of the 10 States which led the Nation in industry between 1939 and 1953, only 2, Texas and Florida, were right-to-work States.[68]

In 1929 the annual Arkansas per capita income was $304, and by 1945 it had risen to $654.[69] In 1950 it was $805 and had risen to $1,322 by 1959.[70] Thus in the past 30 years the rise in per capita income appears to be about constant through right-to-work and non-right-to-work years. In general, it appears that right-to-work States have substantially inferior incomes.[71] Out of 48 States and the District of Columbia, Arkansas in 1959 was next to the last in per capita income rankings.[72] Under some other standards, right-to-work States have relatively less social legislation [73] and higher education rejection rates for failure of Army education tests.[74]

Whether all of these factors are coincidental or consequent to right-to-work legislation must be left up to the advocates, but it does appear that extravagant claims for their economic value to the State are somewhat exaggerated.[75]

As to direct legal consequences, no prosecution under the penalty provisions of the statute are on record. On the contrary, the law has been "enforced" through injunctions against picket lines with what are characterized as illegal purposes, or defenses to contract actions with what are held to be invalid union security clauses. The major problems on constitutionality have been resolved, but there appear to be two serious questions on the scope and enforcement of the statute under the Federal Constitution which have not been presented to the Arkansas courts.

The controversy over union security, or the right to work, will continue.[76] It is hoped that the preceding survey of its operation in Arkansas will be of some value in measuring its success in the public and legislative debates to come.

Mr. FULBRIGHT. Mr. President, Dean Covington's remarks are still valid. Almost 20 years have passed since the enactment of Act 101 in 1947, and this act has not been judged to have been an error—at least, not by the people of Arkansas. This is a judgment which can be and should be made in Arkansas. Neither the President, nor Secretary Wirtz, nor the Congress of the United States should attempt to usurp the right of the people of Arkansas to correct any law or State constitutional provision perceived by them to be in error.

Some have referred to the constitutional democracy of the United States itself as a great experiment. After 180 years, I believe that this experiment has proved its worth and that it should continue. After 20 years of amendment No. 34 to the Arkansas constitution, I believe that it has worked very well and should continue also.

President Johnson supports H.R. 77 in pursuance of a "hope of reducing conflicts in our national labor policy that for several years have divided Americans in various States." I have had no information about interstate conflict on this issue, so I presume that the President hopes to reduce intrastate conflict. But what conflict, Mr. President? If there is, in fact, any evidence of intrastate conflict, on what grounds can it be argued convincingly that solutions should be found by interstate edicts?

I do not see what the President has in mind when he talks about reducing conflicts in our national labor policy. There has been relatively little—in truth, remarkably little—conflict in the State of Arkansas. We have no need to burden the lives of 100 busy Senators with efforts to resolve a conflict which does not exist. If a majority of the people of Arkansas

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[61] 299 S.W. 2d 8 (Tenn. 1957). A union representative had told an employer that the plant would be picketed unless union labor was hired. The Tennessee Supreme Court expressly phrased the issue "whether the courts of Tennessee have the power to enforce the right to work law . . . or whether it was the intention of the Labor Management Act * * * to so exclusively preempt the field of Labor Management Relations in interstate commerce as to remove the matter from the jurisdiction of the State courts." 299 S.W. 2d at 9.

[62] Garner v. Teamsters Union, AFL, supra, note 44; *Weber* v. *Anheuser-Busch, Inc.*, 348 U.S. 468 (1955).

[63] The case of *DeVries* v. *Baumgartner's Electric Co.*, 359 U.S. 498 (1959), follows the Farnsworth & Chambers principle in barring State action against picketing in violation of State right-to-work laws; four Justices dissented on the ground that conduct neither protected nor proscribed by the National Labor Relations Act should be subject to State control. The South Dakota court had ruled that the State court not enjoin picketing, but could entertain a suit for damages because of picketing designed to force an employer to force his employees to join the union, said to be a violation of both the Federal statute and the State right-to-work law. 91 N.W. 2d 663 (S.D. 1958). On appeal by the union protesting even the damages portion of the remedy, the Supreme Court reversed with a memorandum opinion. See also citations in Comment, 12 Ark. L. Rev. 354, 375, n. 165 (1958).

[64] Often cited for this proposition is *Algoma Plywood Co.* v. *Wisconsin Employment Rel. Bd.*, 336 U.S. 301 (1949). Enforcement of a maintenance of membership in a collective bargaining agreement was challenged under State labor legislation, and the State was allowed to assert jurisdiction to regulate this union security device. The force of Algoma, however, probably was emasculated by *Plankinton Packing Co.* v. *Wisconsin Employment Rel. Bd.*, 338 U.S. 953 (1950). The National Labor Relations Board gives effect to State right-to-work laws by limiting its remedial orders for employment situations in those States. *Sharon Hats, Inc.*, 127 NLRB No. 119 (1960); *Nebraska Bag Processing Co.* 122 NLRB 654 (1958).

[65] An extremely broad Arkansas injunction in an unreported case is discussed in Dempsey, "The Operation of the Right-To-Work Laws" 10 Lab. L. Jour. 552, 554 (1959). A chancellor enjoined picketing which had not yet started, and the restraint included unions not directly involved in the labor dispute with the complaining employer, all based on what was found to be an illegal conspiracy to promote a union shop on a construction job.

[66] Or maxims of morality. Compare Weilepp, "The Principle of Right-To-Work Is Not an Economic Issue, It Is a Moral One" Kansas Construction magazine (July 1954) with "International Association of Machinists, Right-To-Work Laws: Three Moral Studies" (1955). See also "National Council of Churches, Union Membership as a Condition of Employment" p. 9 (1956): "[I]t is recognized that either requiring by law or forbidding by law union membership as a basis of continuing employment involves grave moral problems. Under the varied circumstances prevailing at different times and places throughout this large country the National Council of Churches discerns no simple judgment on these moral problems upon which highly diverse opinions are held by dedicated Christians."

[67] Pollitt, supra at 250. The 7-year average before 1947 was 0.43 percent of the Nation's total; it was 0.41 percent of the total from 1948 through 1954. About the same figures are shown when stoppages are measured by man-days lost per year. Pollitt, supra at 248.

[68] Pollitt, supra at 243.

[69] U.S. Department of Labor, "Leader in the South" 42 (1947).

[70] Arkansas Gazette, Sept. 4, 1960, p. 6A, col. 7.

[71] University of Arkansas Industrial Research and Extension Center, "Average Hourly Earnings in the Arkansas Manufacturing" (1959); Nadworny, "Right to Work Laws Hamper South's Industrial Growth," the American Federationist (April 1960).

[72] Supra, note 68.

[73] Minimum wage, child labor, unemployment insurance, and workmen's compensation. AFL–CIO, Union Security, supra note 3, at 132.

[74] AFL–CIO, Union Security, supra note 3, at 133.

[75] E.g., Missouri State Chamber of Commerce, "Growth of Employment in Right-to-Work States" (1954): "Right-to-Work laws help to create an atmosphere favorable to business expansion and the creation of new business. As a result, more jobs and more markets are brought into being, to the mutual advantage of workers and businessmen alike * * *. Right-to-work laws, combined with other favorable legislation, contributed greatly to this economic growth through encouragement of business expansion and the creation of new businesses and new jobs."

[76] During the summer of 1960, U.S. Senators BYRD (Virginia) and HUMPHREY (Minnesota) exchanged sharp comments on the proposed repeal of section 14(b) of the National Labor Relations Act, in debate on the Senate floor. AFL–CIO News, Sept. 3, 1960, p. 4, col. 3. For an interesting attempt to invoke amendment 34 in the legal profession, see "In the Matter of the Integration of the Bar," 222 Ark. 35 259 S.W. 2d 144 (1953).

wish to repeal amendment No. 34, they are at liberty to do so and have workable methods to do so. Certainly, amendment No. 34 to the Arkansas constitution is no cause for conflict in any other State.

Mr. President, I do not believe that the passage of H.R. 77 will reduce any conflict in the State of Arkansas or in any other place. On the contrary, proposals like H.R. 77, intruding in intrastate affairs, are likely to produce more conflict than amendment No. 34 to our State constitution. I shall refer later in my remarks to one of the aspects of this question.

It may be argued that the incidence of conflict is frequently increased after Federal intervention in intrastate affairs.

Mr. President, let us not seek conflict where it does not exist. Let us not risk the precipitation of conflict by action which is unnecessary and unwarranted. Let us not intervene where no constitutional principles are on the side of intervention. I do not believe the most ardent supporter of this measure alleges that the constitutional provision of Arkansas' State constitution violate the Federal Constitution.

Let us not insist upon precipitate changes in labor policy when evolutionary changes are a clear and preferable alternative.

Mr. President, we in Arkansas have no desire nor need for uniformity of the kind proposed by H.R. 77. We have no desire nor need for Secretary Wirtz to experiment with presently harmonious relationships between labor and management in Arkansas. We have little conflict to be reduced; and we have no desire nor need for the conflict which might follow enactment of H.R. 77.

Mr. ERVIN. Mr. President, I ask the Senator from Arkansas if he will yield to me for the purpose of making a unanimous-consent request, with the understanding that he shall not lose the floor or his right to resume his speech by reason thereof.

Mr. FULBRIGHT. With that understanding, I yield.

Mr. ERVIN. Mr. President, I ask unanimous consent that I may make certain observations and put certain questions to the Senator from Arkansas with respect to the constitutional aspects of the question, without his losing the right to the floor, and without his having his subsequent remarks counted as a second speech on the subject of H.R. 77.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? The Chair hears none, and it is so ordered.

Mr. ERVIN. When I had the privilege of serving upon the Supreme Court of North Carolina, I had occasion to study a constitutional question which had some bearing upon the problem, and which indicated that compulsory unionism violates the spirit rather than the letter of the Constitution.

The Senator from Arkansas, as a lawyer and as a former professor of law at the University of Arkansas, knows that the fifth amendment to the Constitution of the United States provides that no agency of the Federal Government shall deprive any person of life, liberty, or property without due process of law, and that the constitutions of virtually all the States of the Union contain a similar clause, or what is know as the "law of the land" clause, which also prohibits the States from depriving any person of life, liberty, or property without due process of law.

The North Carolina Supreme Court was confronted by the question as to whether the State of North Carolina had the power under the North Carolina constitution and under the due process clause of the 14th amendment, which is applicable to the States, to enact a law which prohibited anyone from practicing the art of photography for commercial purposes without first passing a State board examination and satisfying the State board that he had competency in the field of photography and was of good moral character.

The validity of the State statute was assailed on the ground that it violated the "law of the land" clause of the North Carolina constitution, which means exactly the same thing as the due process clause of the 14th amendment as applied to State action.

I had the privilege of writing the opinion in that case which held that photography represented one of the ordinary occupations of life, and that any State statute which undertook to deprive any citizen of the right to practice the art of photography, or any of the other ordinary occupations of life, was violative of the "due process" clause of the State constitution.

In the course of that opinion, as a result of much study, relating to the due process clauses and the law of the land clauses of various constitutions, I said:

> These fundamental guarantees are very broad in scope, and are intended to secure to each person subject to the jurisdiction of the State extensive individual rights, including that of personal liberty. The term "liberty," as used in these constitutional provisions, does not consist simply of the right to be free from arbitrary physical restraint or servitude, but is "deemed to embrace the right of man to be free in the enjoyment of the faculties with which he has been endowed by his Creator, subject only to such restraints as are necessary for the common welfare. * * * It includes the right of the citizen to be free to use his faculties in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or vocation, and for that purpose to enter into all contracts which may be proper, necessary, and essential to his carrying out these purposes to a successful conclusion."

Mr. President, the opinion to which I refer is the opinion of the Supreme Court of North Carolina in the case of *The State* v. *Owen Ballance*, 229 North Carolina 764. I read an extract from page 769 of that opinion.

That opinion, in short, holds that the Government itself cannot deny any person the right to pursue any of the ordinary occupations of life.

Now let me ask the Senator from Arkansas, assuming that the conclusion which the Supreme Court of North Carolina reached in that case is sound, whether the proposal to prohibit State right-to-work laws does not come down to a demand for compulsory unionism, and whether the bill to repeal the pending bill does not in effect undertake to authorize a union and an employer to do that which Congress itself under the due process clause could not do; namely, deny any man his freedom to pursue one of the ordinary occupations of life.

Mr. FULBRIGHT. I believe that the Senator is quite logical in his comments. If we repeal section 14(b), his decision in that case was wrong. The two are inconsistent, I believe.

Mr. ERVIN. Of course, the due-process clause of the fifth amendment operates only upon the Federal Government——

Mr. FULBRIGHT. The 14th amendment operates also.

Mr. ERVIN. Yes, the due-process clause of the 14th amendment operates only upon the States. To be sure, unions and private industry do not represent the Government. The effort to repeal section 14(b) of the Taft-Hartley Act is tantamount to an effort to authorize the union and the employer to do that which the fifth amendment prohibits the Federal Government itself from doing, and that which the due-process clause of the 14th amendment prohibits the States from doing; is that not correct?

Mr. FULBRIGHT. I believe the Senator is correct.

Mr. ERVIN. Therefore, so far as their constitutionality is concerned, the right-to-work laws are perfectly constitutional; and compulsory unionism, while not a technical violation of the Constitution, is a violation of the spirit of the Constitution, to the effect that the right to liberty includes the right to pursue one of the ordinary callings of life; is that not correct?

Mr. FULBRIGHT. I believe that the Senator is quite correct. It does violate the spirit of the Constitution in the sense that he has pointed out. Of course, the advocates of the bill have not, so far as I know, gone so far as to say that the Arkansas law, the 34th amendment to our constitution, is unconstitutional under the Federal Constitution. They put it on another basis. It would be absurd for them to do otherwise.

Mr. ERVIN. I invite the attention of the Senator to another point. I ask him if he does not agree with me in the thought that Samuel Gompers was perhaps the greatest statesman this country has produced in the field of labor?

Mr. FULBRIGHT. Samuel Gompers was really the founding father of the American labor movement. He was certainly one of the early fathers of the movement.

Mr. ERVIN. I invite the attention of the Senator from Arkansas to a speech written by Samuel Gompers, which he was too ill to deliver in person, and which was read to the American Federation of Labor at the request of Samuel Gompers by William Green, the then president of the federation at its convention in El Paso, Tex., in 1924.

After reviewing the advancements made by the labor movement in America Samuel Gompers said:

So long as we have held fast to voluntary principles, and have been actuated and inspired by the spirit of service, we have sustained our forward progress and we have made our labor movement something to be respected and accorded a place in the councils of our Republic. Where we have blundered into trying to force a policy or a decision, even though wise and right, we have impeded, if not interrupted, the realization of our aims.

He stated further in that speech:

Men and women of our American trade union movement, I feel I have earned the right to talk plainly to you. As the only delegate to that first * * * convention [in Pittsburgh] who has stayed with the problems of our movement through to the present hour, as one who with clean hands and with singleness of purpose has tried to serve the labor movement honorably and in a spirit of consecration to the cause of humanity—I want to urge devotion to the fundamentals of human liberty—the principle of voluntarism. If we seek to force, we but tear apart that which, united, is invincible.

He made this further statment in that speech:

Understanding, patience, high-minded service, the compelling power of voluntarism have in America made what was but a rope of sand, a united, purposeful, integrated organization, potent for human welfare, material, and spiritual.

Finally, he made this closing statement:

As I review the events of my 60 years of contact with the labor movement, and as I survey the problems of today, and study the opportunities of the future, I want to say to you, men and women of the American labor movement, do not reject the cornerstone upon which labor's structure has been builded—but base your all upon voluntary principles and illumine your every problem by consecrated devotion to that highest of all purposes—human well-being in the fullest, widest, deepest sense. * * * As we move upward to higher levels, a wider vision of service and responsibility will unfold itself. Let us keep the faith. There is no other way.

I should like to ask the Senator from Arkansas if he does not join the Senator from North Carolina in interpreting those statements by the greatest labor statesman of our Nation, Samuel Gompers, to the effect that the labor movement should be founded upon voluntarism, and not upon compulsion.

Mr. FULBRIGHT. The Senator is correct. I agree with his statement. I also agree with Mr. Gompers' statement.

Since the Senator from North Carolina has quoted Samuel Gompers, I might add one other quotation. Samuel Gompers said:

There may be here and there a worker who for certain reasons unexplainable to us does not join a union of labor. This is his right, no matter how morally wrong he may be. It is his legal right and no one can or dare question his exercise of that legal right.

Which bears on what the Senator has stated. That was the strength of Mr. Gompers. If there were more people like Mr. Gompers in the labor movement, there would be no need to force workers to join unions; they would join unions voluntarily.

Mr. ERVIN. Is it not the essence of freedom that every man should be able to make a wrong as well as a right choice?

Mr. FULBRIGHT. That is correct.

Mr. ERVIN. If a man does not have the right to act unwisely as well as intelligently, he has no freedom.

Mr. FULBRIGHT. Then somebody has to do it for him—the Government or someone else.

Mr. ERVIN. Does the Senator from Arkansas join the Senator from North Carolina in the belief that the American people and the American workers are able to make this decision for themselves rather than have it thrust upon them without their choice?

Mr. FULBRIGHT. I think they are better able to make a good choice. They have done so, by and large. In my State, they have made a good choice.

Mr. President, to further illustrate the state of harmony which exists between labor and management in my State, I call the attention of the Senate to the testimony of Mr. William L. Gatz of Paragould, Ark. Mr. Gatz represented the Arkansas State Chamber of Commerce and the 30-State Council of State Chambers of Commerce. His testimony appears on pages 174–180 of the committee hearings. A significant portion of Mr. Gatz' testimony reads as follows. I shall read only a portion of the testimony to illustrate the point, which I think is significant here:

Our town of Paragould is one of 10,000 persons in a county of 25,000. My company was organized in 1950 with $20,000 capital stock, 5 employees, and 3,200 square feet of manufacturing space. I am trying to give you a background of how small business can be.

In 1962, my employees elected to affiliate with the IAM.

Now what my employees think of the idea of national legislation to abolish 14(b) is attested by their petition which is attached to this statement, and it reads as follows:

"We, the undersigned, being hourly wage earners, believe that section 14(b) of the Taft-Hartley Act should not be revoked.

"The right of the individual to decide for himself is the most sacred right Congress should strive to preserve.

"We believe the elimination of section 14(b) of the Taft-Hartley Act would violate every principle for which America stands."

The petition is signed by all 33 employees.

In our community we have 3 industries employing 100 people or more. These industries are in our community because our people built the plants through the medium of private contributions augmented by private capital loans. These plants were then leased to these companies in order to create jobs for our people who have been displaced by the mechanical or technological revolution that has beset farming since the end of World War II.

Now, I repeat, the people, not the State, not the county government, and not the Federal Government, recognized a need, and the people took positive action to remedy those needs.

As a result today, our county population is up 30 percent over 10 years ago. Our bank deposits are up 92 percent. Industrial jobs are up 155 percent. We have provided 2,100 jobs in our community. Industrial payrolls are up 200 percent—that is a $6 million figure annually. Our farm employment in our county is 4,100.

Gentlemen, this is what free men in a free environment can accomplish for themselves.

I ask unanimous consent that the contents of pages 174–180 of the hearings be printed in the RECORD at this point.

There being no objection, the extracts were ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM L. GATZ, PRESIDENT, WONDER STATE MANUFACTURING CO., REPRESENTING THE COUNCIL OF STATE CHAMBERS OF COMMERCE

Mr. GATZ. Thank you; my name is William L. Gatz. I am president of the Wonder State Manufacturing Co., in Paragould, Ark. We make various types of machinery for materials handling.

I am testifying today in behalf of my own State chamber organization, the Arkansas State Chamber of Commerce. In addition, I have been authorized to speak for 30 other State chamber organizations in the Council of State Chambers of Commerce. These organizations, which have specifically authorized me to speak in their behalf, are listed at the conclusion of my statement.

I want to speak on the basis of my own experience in my own company on this matter of "right to work." For the broader issues of the importance of "right-to-work" laws for the small businesses in the States that have them, I would like to submit the statement of a Florida lawyer who is a member of our council's committee on labor relations.

He is Otto R. T. Bowden, of Jacksonville, Fla. Mr. Bowden's statement has also been endorsed by each of the State chambers of commerce organizations for whom I speak.

Senator MCNAMARA. Without objection, it will be included in the record at this point.

(The prepared statement of Mr. Bowden follows:)

"PREPARED STATEMENT OF OTTO R. T. BOWDEN, MEMBER, STATE CHAMBERS OF THE COUNCIL OF STATE CHAMBERS OF COMMERCE

"My name is Otto R. T. Bowden. I am a practicing attorney in Jacksonville, Fla. I am chairman of the Labor Relations Committee of the Florida State Chamber of Commerce and represent that organization on the Labor Relations Committee of the Council of State Chambers of Commerce. This statement is submitted in behalf of the 31 State and regional chambers of commerce which are listed at the end of this statement.

"At the outset let me say that the Labor Relations Committee of the Council of State Chambers of Commerce, and its member chambers of commerce oppose the repeal of section 14(b) of the Taft-Hartley Act.

"We are now in the era of great sociological change. At no time in the history of these United States have we seen more protection being afforded to the right of individuals, through legislation and through court decrees. If this period of history is to be known by any title, it certainly must be known as "The Era of the Individual." This has been pointed up by the U.S. Supreme Court in cases involving the rights of individuals being represented by counsel in criminal cases; by decisions of the U.S. Supreme Court regarding the freedom of speech and the rights of persons to make such statements; by decisions of the Supreme Court as to the rights of individuals to abstain from religious instructions in public schools; the recognition of the rights of conscientious objectors during time of war not to bear arms because of their beliefs and principles; by acts of the current administration and of the Attorney General of the United States in their zeal to protect the freedom of assembly and the right to protest by individuals; and, lastly, the Civil Rights Act of 1964, which guarantees the right of an individual to service in places of public accommodation, and the right of the individual of nondiscrimina-

tion in his job opportunities by reason of his race, religion, national origin, or sex.

"With this background, repeal of section 14(b) would be inconsistent with the thinking of this era of the individual. Section 14(b) of the Taft-Hartley Act is in accord with the era of the individual and with its principles in that it insures the worker that he cannot be forced against his wishes to join a labor organization in order to fulfill a most basic and elementary right, that being his right to work and support his family without the payment of any tribute to any person or organization. If a worker can be deprived of this basic right, then all others can be more easily abrogated. It appears inconsistent that a man, because of his convictions, can be excused from combat duty in time of war when the fate of our Nation is in peril, and yet be required to join a labor organization in peacetime in order to work and thereby fulfill his obligations to home and family. The question of compulsory unionism, as opposed to voluntary unionism, strikes at the very foundation of our American liberties. Individual freedom of choice is the basic issue involved and it is an issue which affects one's constitutional rights to life, liberty, and possession of property. What is gained by assuring an individual that he has the right to be served at a place of public accommodation; yet to require that he join a labor union to work in order to pay for the accommodations to which he is assured? It appears that such legislation strikes at person's vanity rather than his integrity and can hardly be justified in view of all the presentday circumstances. What good is it to assure a person that he will not be discriminated against in employment by reason of his race, creed, place of origin, or sex, if he can be discriminated against in the employment gained because of his nonmembership in a labor organization? We feel that an employee's conscientious objection to membership in a labor organization should be afforded the same respect, consideration, and protection as his other basic rights which this administration so jealously guards.

"American labor leaders have won an extraordinary collection of special legal privileges and exemptions based on the theory that unions are voluntary associations. Union membership is either voluntary or it is not, and a union which has to resort to coercion and involuntary membership to recruit members, illustrates there is something drastically wrong with the union itself. Unions that are honestly run and serve the best interests of their members do not need compulsory unionism to keep them going. There is little to say for unions that can exist only by forcing workers to join under the threat of losing their jobs. Labor here should be as it is in France, where it is regarded as a movement; a morality, and not a business. It is surprising that so many believers in democracy and the rights of individuals, who call themselves liberals, should be against voluntary unionism and in favor of compulsory unionism. 'Right-to-work' laws, so called, as protected by section 14(b) are not antiunion, rather they are proworker and they cannot possibly wreck unions as some opponents claim because unions are protected by both State and Federal laws in various ways. It should be emphasized that the right not to join a union is a necessary corrollary of the right to join, for without the right not to join, there can be no such thing as a right to join. Freedom rests on choice, and where choice is denied, freedom is destroyed as well. 'Right-to-work' laws are aimed at taking away the right of compulsion from the union and giving that right back to the individual worker where it belongs—14(b) does not impede unions in their legitimate purposes and growth. They do not prevent any worker from joining a union, but they prevent unions from enforcing membership against the will of the worker and against their consciences.

"As a practicing attorney, I know from experience, that there will be serious objections on the part of the small businessman to the repeal of section 14(b) due to conflict with the philosophy of many small and large employers.

"I also know, from experience, that many of these businesses will never agree to a union contract which contains any clause which would remove from the individual worker his rights of election as to his membership, or nonmembership, in any labor organization. The repeal of section 14(b) would increase industrial strife in that it is apparent that one avenue by which a small employer can escape from any possible application of the repeal of section 14(b) is to resist union organization more vigorously than he may have in the past. The only avenue left to the business would be to engage in industrial strife in order to protect what it believes to be the employees' individual right. Therefore, the repeal would not assist unions; in fact, it might create more problems than the unions now contemplate, or this committee now contemplates. It would greatly enhance and stiffen employer opposition to unions and could act as a two-edged sword if the unions were faced, as I believe they will be, with a stiffened management resistance, not only to compulsory unionism, but to the whole principle of unionism itself.

"There is no assurance in the repeal of section 14(b) which would substantiate the statement by Secretary of Labor W. Willard Wirtz in his testimony, that the retention of section 14(b) provides a 'legal climate allegedly less conducive to unionism and union wages and working conditions.' Section 14(b) has nothing to do with the rights of unions to organize employees or to negotiate on any condition of employment, other than that of compulsory union membership. Therefore, if conditions such as Secretary Wirtz complains of actually exist, then these conditions are not the result of section 14(b), but of the failure of unions to gain higher wages and other working conditions which would have been possible whether section 14(b) is in existence or not.

"Secretary Wirtz is reported to have stated that 'the only effect of the repeal measure would be to permit employers and unions to negotiate union shop contracts in 19 States that now ban them.' If this statement, as reported, is correct, then Secretary Wirtz himself points up the fact that his argument for repeal is inconsistent in that it has nothing to do with a legal climate which allegedly is less conducive to unionism and union wages and working conditions. The fact remains that after some 30 years of Federal legislation in the labor field, that less than a majority of the workers are now covered or represented by labor unions. This includes States with right-to-work laws and States which permit union shop contracts. This speaker violently disagrees with the statement reported to have been made by Secretary Wirtz before this committee in which he is reported to have stated 'the argument that union shop agreements violate the freedom of individual employees has no substantial basis.' This statement, of course, ignores the facts and is totally at variance with the real purpose of union shop contracts. If the small businessman and the unions negotiated on equal footing, it may be that the repeal of section 14(b) other than its philosophical implications would not affect the bargaining. However, we who are actively engaged in representing small businessmen, as well as large companies, know that is indeed rare for a small businessman to be able to withstand the unified might of all labor organizations when the full brunt of their attack is directed against him. All too often the small businessman is the new businessman, and one that is stretched to the limit of his financial means, and therefore cannot stand any interruption in his production and income. The small businessman does not have the financial reserves with which to withstand prolonged union negotiations or union strife and is, therefore, faced with financial ruin on the choice of going out of business if he chooses to oppose the might of the unions on the question of basic principles such as section 14(b) involves.

"Legislation should be considered from its impact on all of the people rather than a small minority who seek power through legislation. Opinion Research Corp. polls indicate that support for the right-to-work amendment reached an alltime high in 1964, advancing to 67 percent in 1964, from 48 percent in 1956. This would indicate that the least this Congress could do would be to submit this matter to a nationwide referendum so that such referendum would reflect the desires of all persons rather than a small minority of the total population of this country. Interviews with employees in my State reflect that the most violent antiunion worker interviewed are those which were forced to join a union in other States in order to work. Investigation indicates that these workers migrated to States in which they were not required to join a union in order to satisfy their basic philosophy that the exaction of such a tribute in order to work was un-American and against principles which many of them considered a violation of their personal right.

"The Labor-Management Relations Act of 1947, of which section 14(b) is a part, states that its purpose is the prevention of industrial strife which interferes with the normal flow of commerce. Repeal of section 14(b) would tend to lead to strife inasmuch as many businessmen will not agree to any contract clause which would require the employees to join the union, therefore making it necessary for the parties to revert to their economic weapons to attain their goals.

"President Lyndon B. Johnson, in his message of May 18, stated that he hoped that repeal of section 14(b) would reduce conflicts in the national labor policy. I would be amiss if I did not point out that if there is, in fact, a conflict in our national labor policy, that this policy can be resolved by guaranteeing the 'right to work' of all employees in all of our 50 States which would make it then a democratic process for all employees to join, or not to join, a union.

"I am unable to understand why labor unions, as such, attempt to take full credit for any advance which is reflected in higher wages and working conditions. It is admitted that they might be partially responsible, but I think it would be an egotistical approach to state that they claim full responsibility for all advances made by working man or men in any period. Repeal of section 14(b) would advance the cause of no individual in these United States. It would only advance the cause of compulsory unionism and enhance the union's opportunities to use strikes and threats of strikes with great success to force compulsory union membership provisions and checkoff clauses into what they hope would be a high percentage of contracts. Union treasuries are at an alltime high which reflects that compulsory union membership is not necessary in order for the unions to enjoy financial success from their endeavors. The unions need no further assistance than they already have under the great grant of powers given to them under prevailing Federal legislation. It is the individuals themselves, and the small businessman, who need protection of Congress in the enjoyment of all rights guaranteed to them under the Constitution of these United States, which promises that they will have full enjoyment of their rights guaranteed therein.

"I therefore recommend to this committee that it guarantee to the individual his rights of free choice, so as to make this act consistent to the acts of courts, Federal agencies, and Congress itself, by keeping section 14(b), and thereby assist in maintaining this era of the individual.

"The State chamber of commerce organizations in whose behalf I have been specifically authorized to testify are listed below:

"Alabama State Chamber of Commerce.
"Arkansas State Chamber of Commerce.
"Colorado State Chamber of Commerce.
"Connecticut State Chamber of Commerce.
"Delaware State Chamber of Commerce.
"Florida State Chamber of Commerce.
"Georgia State Chamber of Commerce.
"Idaho State Chamber of Commerce.
"Illinois State Chamber of Commerce.
"Indiana State Chamber of Commerce.
"Kansas State Chamber of Commerce.
"Kentucky Chamber of Commerce.
"Maine State Chamber of Commerce.
"Michigan State Chamber of Commerce.
"Mississippi State Chamber of Commerce.
"Missouri State Chamber of Commerce.
"New Jersey State Chamber of Commerce.
"Empire State Chamber of Commerce (New York).
"Ohio Chamber of Commerce.
"Oklahoma State Chamber of Commerce.
"Pennsylvania State Chamber of Commerce.
"South Carolina State Chamber of Commerce.
"Greater South Dakota Association.
"East Texas Chamber of Commerce.
"South Texas Chamber of Commerce.
"Utah Trade Association & Chamber of Commerce.
"West Texas Chamber of Commerce.
"Lower Rio Grande Valley Chamber of Commerce (Texas).
"Virginia State Chamber of Commerce.
"West Virginia Chamber of Commerce.
"Wisconsin State Chamber of Commerce."

Mr. GATZ. Our town of Paragould is one of 10,000 persons in a county of 25,000. My company was organized in 1950 with $20,000 capital stock, five employees, and 3,200 square feet of manufacturing space. I am trying to give you a background of how small business can be.

In 1962, my employees elected to affiliate with the IAM.

Now what my employees think of the idea of national legislation to abolish 14(b) is attested by their petition which is attached to this statement, and it reads as follows:

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"We believe the elimination of section 14 (b) of the Taft-Hartley Act would violate every principle for which America stands."

The petition is signed by all 33 employees.

In our community we have 3 industries employing 100 people or more. These industries are in our community because our people built the plants through the medium of private contributions augmented by private capital loans. These plants which they lease to these companies in order to create jobs for our people who have been displaced by the mechanical or technological revolution that has beset farming since the end of World War II.

Now, I repeat, the people, not the State, not the county government, and not the Federal Government recognized a need, and the people took positive action to remedy those needs.

As a result today, our county population is up 30 percent over 10 years ago. Our bank deposits are up 92 percent. Industrial jobs are up 155 percent. We have provided 2,100 jobs in our community. Industrial payrolls are up 200 percent—that is a $6 million figure annually. Our farm employment in our county is 4,100.

Gentlemen, this is what freemen in a free environment can accomplish for themselves.

Need I remind you that this country didn't get where it is today because of laws, but because of the actions of its people. Great Society can't be built by a government and you do not need to be a history student to recognize these facts.

They are going on today. A Great Society cannot be imposed upon a society—a Great Society will evolve from a people, and how a free choice can be a detriment to the national labor movement is a mystery to us.

I think it is rather ironic that 100 years ago the industrial North derided the South for having slavery. Today when 10 out of the 19 "right-to-work" States are of the South, the industrial North abhors the freedom and individuality of the same people.

If this proposed legislation is enacted, 54 million Americans who live in these 19 States will be immediately slapped in their economic faces by the Federal hand. That's one-third of our population that is reduced to the servitude of union dictation at the whim of the Federal Government to repay a campaign promise.

This is not just a matter affecting the 54 million residents of the 19 States having "right-to-work" laws. This proposed legislation would preclude the people of the 31 remaining States from exercising their privilege of changing their minds.

Recently we had an experience with the State of Indiana through a public referendum repeal of their State "right-to-work" constitutional acts.

Last year the people in Oklahoma voted down a proposed constitutional amendment which would install a "right-to-work" feature in their constitution. We think that the people of Indiana and the people of Oklahoma have what they want by their choice—through a truly democratic process.

In closing, I would like to reiterate the words of two rather great and immortal Democratic Presidents. Mr. Roosevelt in 1932 in his commonwealth address stated:

"A government must so order its functions as not to interfere with the individual."

And Mr. Truman in 1949, when he introduced his Fair Deal message to Congress said:

"Democracy maintains that government is established for the benefit of the individual, and is charged with the responsibility of protecting the rights of the individual and his freedom in the exercise of his abilities."

I appeal to this committee and to the Senate as a whole with the question: Has our democracy arrived at the point wherein the people are too dumb to know what is good for themselves and consequently do they need a benevolent legislature to watch over them? I pray not.

Thank you.

Senator MCNAMARA. Thank you very much, Mr. Gatz. We appreciate your being here this morning. You made a fine contribution to our record, you can be sure your viewpoint will be given consideration.

Mr. GATZ. Thank you.

Senator MCNAMARA. Any questions, Senator PROUTY?

Senator PROUTY. First let me congratulate you. As a representative of your chamber of commerce, I think you certainly did an excellent job.

Mr. GATZ. Thank you.

Senator PROUTY. You say that in your town there are three industries that employ in excess of 100 people? Your business is organized, I understand; you have a union there.

Mr. GATZ. That is correct.

Senator PROUTY. What about the other two?

Mr. GATZ. They are nonunion.

Senator PROUTY. Now, who instigated the petition which you attached to your statement?

Mr. GATZ. The petition that is attached to my statement came about in the following manner: when an appeal came from our State chamber of commerce to represent the State of Arkansas at the House hearing I wanted to make certain myself that I was on firm ground. So I called a general meeting of my entire organization—all the employees of my company, 33 of them—and I explained to them that I had been asked to go to Washington to appear before the House Labor Subcommittee in behalf of retaining section 14(b).

I wanted to know what my employees wanted me to do. I did not feel like I would be morally capable of coming to Washington and presenting a personal view because I do not think that this is what the legislature wants to know.

After discussing this thing, the request to come to Washington, I told the men that I would prepare a statement which would be a very simple statement of fact and it would be available for them if they cared to sign it.

You can see for yourself they signed it. Now, I can say this is a pretty risky thing, as you can well imagine, if you have any experience with the National Labor Relations Board, to do what I did, but I personally felt this was bigger than the NLRB; or anybody or anything. It was just bigger than this; I had to take the risk to know what my employees wanted—and this is how it came about.

Senator PROUTY. I am sure there was no intimidation on your part but the fact remains you were the employer and obviously your employees knew your general feeling about the matter.

Mr. GATZ. That is correct.

Senator PROUTY. And conceivably some of them perhaps felt that they had no alternative other than to sign.

Mr. GATZ. Some of them did not sign.

Senator PROUTY. You have some that are not on there.

Mr. GATZ. There are some that are not on there. Actually at the time this thing was gathered, we had more employees, if my statement deceives you. I maintain a minimum of 33 the year around. Some did not sign.

Senator PROUTY. The employees that did not sign—are they—the employees who are no longer there?

Mr. GATZ. No, actually, we have more employees now than we had at the time; everybody is still there, Senator.

Senator PROUTY. Thank you.

Senator MCMAMARA. Thank you very much sir.

Without objection we will go on to the last item on our agenda.

Sir, thank you for being here, we are very happy to have you present your testimony this morning. You may proceed in your own manner.

Mr. FULBRIGHT. Mr. President, yesterday the Senator from Illinois [Mr. DIRKSEN] made reference to certain editorials on this subject. I thought it might be appropriate to read a few editorials from my State to indicate that there has been no change in the attitude of the people of my State in regard to the adoption of the amendment known as the Taft-Hartley Act and the implementation of that act in 1947. I read first an editorial from the North Little Rock, Ark., Times of August 12, 1965. This is a very recent editorial. It is entitled "We Need 14(b)":

Asked what he thought about the bill now before the Senate that would strike down Arkansas' right-to-work law, Frederick R. Kappel, chairman of the board of American Telephone & Telegraph, came right to the

heart of the matter when he was here last week:

"I think it's a pretty serious proposition when we start telling people they have to belong to anything."

What he means, of course, is that if section 14(b) of the Taft-Hartley Act is repealed, Arkansas and 18 other States will have to permit union shops, which is to say that if a union organized most employees in a plant successfully, then the nonunion employees would have to either join the union or quit. We share Mr. Kappel's objection but we can add a few more that are more important to Arkansas.

In the 18 years Arkansas has had the law, the average number of persons with manufacturing jobs each month has gone from 77,237 to 125,214. People who are supposed to know say that our right-to-work law has had a lot to do with this gain. They mention name after name of specific industries that have moved here at least partly because of this law.

Organized labor grants the fact of the increase but points out that our average wage in Arkansas is 74 cents an hour less than the national average and 55 cents below neighboring States like Oklahoma, which has no right-to-work law. The State chamber of commerce counters by asking: "Which is better for Arkansas? One hundred jobs at $4,000 a year or 10 jobs paying $40,000?" Organized labor hates the right-to-work law because it says that it's the last refuge of the labor-hating industry that is still refusing to acknowledge the existence of organized labor. But its claim that repeal of 14(b) would increase union membership in the State by 25 percent is probably greatly exaggerated. Actually, nonunion employees usually find it uncomfortable to stick around a plant very long after it's organized, so the right-to-work law really is more of a symbol to labor than anything else.

I agree with that statement. As a practical matter, that is what it has become.

Apparently, also a symbol to business leaders—people like Mr. Kappel. "Top management," to quote the State chamber of commerce, "has told us over and over again that it wants to build new plants in right-to-work States." Census figures appear to bear this out. Shreveport, La., which is quite competitive with this area for industry and which no longer has a right-to-work law, has about 10,000 manufacturing jobs. Pulaski County has 18,000.

At long last, the industrial revolution is coming to Arkansas, which must be almost the last stop on the trip around the globe it started at the beginning of the 19th century. Whatever we have, whatever we are doing now is apparently working—at least better than anything has ever worked before in our efforts to get industry. We hope that the Federal Government doesn't make us change.

That is from one of the most highly industrialized areas in my State.

I have another article from El Dorado. This is entitled "Survey on Repeal of 14(b)." This article is from the El Dorado Daily News, and it is dated August 3, 1965.

Should Congress repeal section 14(b) of the Taft-Hartley Act—the provision which allows States to have right-to-work laws?

Has the right-to-work law in Arkansas been an asset or liability in the never-ending quest for new industry?

The answers to these questions depend on whom you ask.

A poll, conducted by the Palmer newspapers in cities in the southern half of the State, yielded a wide variety of comments.

Most of those connected with business and industry said the right-to-work law—which gives the employee a free choice of either joining or not joining a union at the place where he works—is a good law and must be retained if Arkansas is to continue its growing industrial progress.

Union members and those sympathetic toward organized labor, on the other hand, said they are opposed to section 14(b) and right-to-work laws and want them repealed.

However, the poll also showed that the average man in the street, who has no direct connection with the higher echelons of business or labor, is not quite sure what the squabble is all about—nor is he clear in his mind what the right-to-work law means.

The U.S. House of Representatives has approved the repeal by a vote of 221 to 203. The measure now goes to the Senate where supporters of section 14(b) have pledged an all-out fight. In the House, Arkansas' four Congressmen, OREN HARRIS, WILBUR MILLS, JIM TRIMBLE and E. C. (TOOK) GATHINGS, voted solidly against the repeal.

Arkansas was one of the first States to adopt a right-to-work law.

In 1944, the right-to-work amendment was approved by a vote of 105,300 to 87,652 in the general election. Enabling legislation was passed by the State legislature in February 1947, and the measure was signed by then Gov. Ben T. Laney.

A typical comment came from a Camden resident. He said, "Arkansas voters approved the right-to-work law several years ago, and I see no need to change it now. We like it and it is fair to everybody. As for me, I am not in favor of any repeal by Congress or any other body. The people voted for it, and they should have another chance to vote on whether it is repealed or not."

I believe that is the overwhelming sentiment of the people of my State. If they wish to repeal it, of course, they have every right to do so and can do it at any election in the future.

Mr. President, I believe that this issue has been raised at the wrong time, in the wrong place, and without sufficient reason. This is not a good time to invite labor strife in States where union membership is peacefully growing year by year. The Federal Congress is not the place to debate a question which should be dealt with in the several States in their own legislatures without Federal interference. There is no compelling reason to impose the Federal will upon States which do not desire such guidance, and when there are such marked differences in the circumstances of the various States.

Mr. President, I am proud of economic progress made in Arkansas over the last 20 years. I am equally proud of the orderly and peaceful growth of labor unions in the State, and the increase of jobs and personal income which has been the result of economic progress and labor-management harmony.

In 1939 Arkansas had only 198,000 employees on nonagricultural payrolls. By 1964 this number had increased to 428,600—a rise of 116.5 percent. Arkansas was 1 of only 15 States which experienced an increase of as much as 115 percent during this period. Ten of these fifteen States have right-to-work statutes or constitutional provisions.

During the period from 1939 to 1964 employees on manufacturing payrolls rose from 47,000 to 125,700. Between 1949 and 1964, inclusively, the gross average weekly earnings of employees on manufacturing payrolls in Arkansas increased from $38.92 to $72.09 per week; and the average weekly hours on the job remained fairly stable, averaging 41.4 hours per week in 1949 to 40.5 hours per week in 1964. The gross average hourly earnings of these workers rose from 94 cents an hour in 1949 to $1.78 an hour in 1964.

During the period from 1954 to 1964 average hourly earnings in manufacturing throughout the Nation rose 42.1 percent while the rise in Arkansas was 42.4 percent. During the same years per capita personal income in Arkansas rose 93 percent and the U.S. average was only 79.6 percent.

During the period from 1958 to 1963 the number of manufacturing employees in Arkansas increased from 89,000 to 114,000 and the value added by the process of manufacture increased from $592 to $952 million. The percentage changes, respectively, were 28 and 77 percent. During the same period the corresponding percentage changes for the Nation as a whole were only 6.5 and 35 percent.

According to statistics supplied by the AFL–CIO, comparing membership in AFL–CIO unions in Arkansas in 1958 and 1962, membership was 20.9 percent of total employment in nonagricultural establishments in 1958 and this percentage had declined to 18.1 percent in 1962. Absolute membership remained approximately unchanged, and the lower percentage is accounted for by the fact that many nonagricultural jobs were created during the period reported. During the same period only 11 States experienced an increase in this percentage. A decline occurred in 38 States including Arkansas, but only 16 States had a smaller decline than Arkansas. I think it is significant to note that in 1962 only 24 States had a higher percentage of AFL–CIO membership to total nonagricultural employment than Arkansas.

As an illustration of the harmonious relationship between management and labor in Arkansas, it should be noted that during the years 1960, 1961, 1962, 1963 the percent of estimated total working time lost by work stoppages averaged less than five hundredths of 1 percent—0.046. This extremely low rate of idle man-days was equalled or exceeded by only four other States, three of which have labor laws similar to those of Arkansas.

This is a very significant statistic—lost man-days of only four and six-tenths hundredths of 1 percent. And this record was achieved with a unionized labor force of a percentage exceeded in only 24 out of 50 States. For comparison, Mr. President, the so-called union shop State with the highest ratio of AFL–CIO members to total nonagricultural employment—Illinois with a rate of 35.2 percent—had a loss of over eleven hundredths of 1 percent of its total working time. This is a lost work experience over twice as great as the experience in Arkansas.

I believe this is a significant record.

My attention has been called to an article which appeared in the Washington Post of this morning, in contrast to the record of Arkansas, where there is a minimum of time lost through strikes,

which is quite important to workers if their work is not to be interrupted.

I read from an Associated Press dispatch published in the Washington Post this morning:

STRIKES IN AUGUST SET RECORD

Strikes in August idled 222,000 workers—

That is more than all the factory workers in Arkansas—

the highest level since 1959, the Labor Department said last night.

The August figure continued a 1965 trend of heavy strike activity, but the Department emphasized that the past few years have produced unusually few labor disputes.

"Strike idleness thus far in 1965 has amounted to 16.8 million man-days, compared with 11.2 million and 11.3 million for the same periods in 1964 and 1963," the Department said.

Man-days lost in August totaled 2.3 million.

One-third of the strike idleness in August was attributed to walkouts against American Motors Corp. in Wisconsin, the Pacific Shipbuilders Association, Atlantic and gulf coast shipping and the construction industry in Arizona, California, and New York.

In August, 380 strikes began involving 92,000 workers, but disputes continuing from July brought the total to 630 walkouts idling 222,000 workers.

In the first 8 months of this year, there were 2,910 strikes involving 1,160,000 workers and 16.8 million lost man-days of production—two-tenths of 1 percent of working time in all industries.

In the first 8 months of 1959, there were 2,997 strikes involving 1,670,000 workers for 35.3 million idle man-days—just under one-half of 1 percent of all working time.

Mr. President, this is highly significant as to the validity of the law as it works in Arkansas. If the people who work there, and work, I believe, under unusually harmonious conditions, were dissatisfied or felt that the Taft-Hartley Act or this section of it were a slave labor law, I am sure there would have been more disruption of work in my State than has proved to be the case.

The fact is that workers, management, and ordinary citizens who are neither employers nor employees are satisfied with the State law. I would be most reluctant to see the Federal Government intrude itself into this situation, for I feel certain that to do so would cause disruption in the orderly progress of my State.

Mr. President, I shall reserve the remainder of my remarks for a later day.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 281 Leg.]

Carlson	Harris	Muskie
Clark	Hill	Neuberger
Cooper	Jackson	Pastore
Cotton	Kuchel	Randolph
Dirksen	Long, La.	Ribicoff
Douglas	Mansfield	Russell, Ga.
Ellender	McGovern	Smathers
Ervin	McNamara	Talmadge
Fong	Mondale	Tydings
Fulbright	Moss	

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG of Louisiana. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. DOUGLAS. Mr. President, will the clerk record the fact that I am present and was present before the Senator from Louisiana made the motion to have the Sergeant at Arms bring in the absent brethren?

The PRESIDING OFFICER. The Chair cannot entertain debate during a quorum call.

Mr. DOUGLAS. It is not debate, Mr. President. Will the clerk record the fact that the senior Senator from Illinois was present and ready to answer to his name before the Senator from Louisiana made his motion?

The PRESIDING OFFICER. The Chair is advised that the Senator is out of order.

After a little delay, Mr. ALLOTT, Mr. BARTLETT, Mr. BASS, Mr. BAYH, Mr. BENNETT, Mr. BIBLE, Mr. BOGGS, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. CHURCH, Mr. DODD, Mr. GRUENING, Mr. HARTKE, Mr. HAYDEN, Mr. HICKENLOOPER, Mr. HOLLAND, Mr. HRUSKA, Mr. INOUYE, Mr. JORDAN of Idaho, Mr. KENNEDY of Massachusetts, Mr. MAGNUSON, Mr. McGEE, Mr. McINTYRE, Mr. MONRONEY, Mr. MORSE, Mr. MORTON, Mr. NELSON, Mr. PELL, Mr. PROUTY, Mr. PROXMIRE, Mr. ROBERTSON, Mrs. SMITH, Mr. SPARKMAN, Mr. THURMOND, Mr. WILLIAMS of New Jersey, Mr. WILLIAMS of Delaware, Mr. YARBOROUGH, and Mr. YOUNG of North Dakota entered the Chamber and answered to their names.

The PRESIDING OFFICER. A quorum is present.

Mr. SMATHERS. Mr. President——

The PRESIDING OFFICER (Mr. MONDALE in the chair). The Senator from Florida is recognized.

Mr. SMATHERS. Mr. President, from the days when the Knights of Labor embraced vague and unattainable schemes for a better world, the American labor movement has progressed a long way in its efforts to secure for the workingman an equitable share of the abundance of our industrial society.

Throughout its painful and strife-torn infancy, the labor movement battled the hostility of public opinion, the power of some ruthless employers, and radicalism and corruption within its own ranks. Antiunion sentiment was stiffened in many quarters by such events as the Haymarket affair in Chicago in 1892 and the IWW strikes of the first decades of this century. Union members were barred from employment by "yellow dog" contracts and blacklists which proclaimed them dangerous troublemakers.

Mr. LONG of Louisiana. Mr. President, will the Senator yield for a question?

Mr. SMATHERS. I shall be happy to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. May I take it from the Senator's remarks that he is prepared to support the repeal of section 14(b)?

Mr. SMATHERS. I say to the distinguished Senator from Louisiana that, from the remarks thus far made, I do not believe the Senator should form any conclusion. But if the Senator will sit here long enough, he will finally see my point of view, which is that under no condition should section 14(b) be repealed.

Mr. LONG of Louisiana. The Senator has said many good things about organized labor. I thought perhaps he was prepared to support the repeal of 14(b), to help organized labor.

Mr. SMATHERS. I am for organized labor. But in my State, since the adoption of 14(b), the labor movement has burgeoned and grown. Unions have taken in more members than they ever had before. Today more than 82,000 workers in Florida belong to unions. The wage scale paid to them has increased, percentagewise, more rapidly than it had prior to the passage of the Taft-Hartley bill; the entire labor movement has burgeoned. I do not know why the unions believe that now they must have the repeal of 14(b). I cannot see, from the record, how it would be of any great benefit to them.

Mr. LONG of Louisiana. I had heard a number of speeches against the repeal of section 14(b), but I thought I was finally hearing one in favor of the repeal of section 14(b), in view of the fact that the Senator started out sounding very much as though he were an advocate of organized labor.

Mr. SMATHERS. I am for organized labor. I like organized labor. I believe that organized labor itself, if the members of the unions were given an opportunity to vote upon the question, would say that the fight being made here to repeal section 14(b) is a sort of sham battle.

I agree that the labor leaders want repeal, because in our State they would automatically pick up thousands of additional union members overnight, from each of whom they would collect many dollars in dues every year. But it would not help the rank and file particularly, and I do not believe they think everyone should be subjected to a situation in which they would have to pay tribute to some labor leader before they could have the right to earn a living for themselves.

But I thank the Senator for his question.

I continue with my prepared remarks.

Gradually, organized labor gained a solid foothold in the Nation's economy, and by 1914, the American Federation of Labor, under the leadership of Samuel Gompers, boasted a membership of over 2 million skilled men, who, for the first time, could take pride in belonging to a union of stature.

Even as the numerical strength of unions crept forward, though, militant employers entered in league with some public officials to crush these organizations of workingmen through the use of police, troops, and injunctions. The major efforts of the A.F. of L., the Railroad Brotherhoods, and others to improve their lot were repeatedly thwarted.

Yet, by the early 1900's, State and Federal legislators—caught up in the

spirit of reform—adopted a number of measures designed to help workers. Laws controlling hours, working conditions and child labor were passed in every part of the land, and the burdens of workingmen were considerably lightened.

But, not until 1914 did unions themselves get legislative support. In that year, the Clayton Antitrust Act was approved by Congress. Section 6 of this act states that—

> The labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor * * * organizations * * * nor shall such organizations or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

Section 20 of the Clayton Act placed a measure of restriction on the use of injunctions against unions involved in labor disputes.

Samuel Gompers, who guided the A.F. of L. for a total of 38 years, hailed the Clayton Act as labor's Magna Carta. His optimism was well founded. For the first time, the Congress of the United States has passed a law which—unlike child labor or 8-hour-day statutes—directly supported unions. No longer could the two most powerful instruments of organized workers, the strike and the boycott, be easily blunted by the rulings of hostile courts who rationalized their decisions by pointing to the antitrust laws.

In 1932, the Norris-La Guardia Act added stronger restraints on the issuing of injunctions and outlawed the old "yellow dog" contracts, which had so effectively hobbled union growth.

This act was a victory for labor welcomed by all Americans who believed in the basic right of employees to organize.

In 1935, the National Labor Relations Act was adopted by Congress. It established the three-man National Labor Relations Board, which was given broad powers to summon employers before it; to issue enforceable orders against the harassment of union members; to hold elections to determine what collective bargaining agent would represent a given group of workers; and, to hear employee complaints regarding violations of the law. During just the first 5 years of its existence, the NLRB handled over 35,000 cases and reinstated more than 21,000 employees fired for union activities.

At long last, organized labor had been elevated to a level of complete equality with management. From its early beginnings as the rejected stepchild of our industrial society, it had matured to take its place at the bargaining table as a full partner in the continuing effort to achieve and maintain prosperity.

But, Mr. President, as unions grew ever stronger, the balance of power, which had rested with employers for so long, began shifting too far the other way. Labor leaders sought closed shop contracts with corporations, contracts that stipulated that an individual had to belong to the union before he could be hired. As it was interpreted by some, the legislation designed to assist unions seemed to condone these pacts and the similar union shop contracts.

Yet, such agreements contained the seeds of an injustice as grave as any perpetrated by the union wreckers of the 1890's and the 1900's. The battle to safeguard the right of factory hands, bakers, hatters, mechanics, all wage earners, to organize for the purpose of bargaining with employers was being distorted to take from these individuals a right just as vital; the right of free choice; the liberty to say "No."

Samuel Gompers himself recognized that workingmen should not be coerced into union membership. He stated:

> There may be here and there a worker who for certain reasons unexplainable to us does not join a union of labor. This is his right no matter how morally wrong he may be. It is his legal right and no one can or dare question his exercise of that legal right.

Mr. President, I remind the Senate that that statement was made by Samuel Gompers, the founder of the American Federation of Labor, the man who headed that great organization for over 35 years, and the man who led labor to some of its greatest victories.

The Congress of the United States strengthened the freedom of workers in 1947, when it included in the Taft-Hartley Act 44 words which permitted the States to approve legislation prohibiting compulsory unionism. Section 14(b) says:

> Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.

It is those 44 words, words that we are today being asked to strike from the statute books.

Mr. President, as a Senator from the State of Florida, I have a special stake in what has come to be known as the right-to-work issue. For it was in my State that the first right-to-work law—that type of law sanctioned by section 14(b)—was proposed.

There is an interesting and instructive history behind Florida's right-to-work law, a history that began in 1941, as the Nation was preparing reluctantly for war. In my State, as everywhere, defense industries seemed to sprout overnight. Supplying qualified labor to keep them running became a major problem. Very quickly, a few unscrupulous union leaders approached defense contractors with the offer to procure the needed workmen in exchange for closed shop contracts that recognized the union both as bargaining agent and labor recruiting agent. When these arrangements were concluded, prospective employees discovered that they had to approach the union rather than the company to apply for a job. If they were not members of the union, they were allowed to work on permits while their membership applications were processed.

A major scandal grew out of these arrangements. A worker paid $30 for a 3-week permit. Frequently, at the end of the 3 weeks, he was still not a member of the union and was forced to purchase another 3-week permit. Often, this money was simply pocketed by the business agent who collected it. Because they did not belong, men fleeced in this manner had no recourse through the machinery of the union. If they complained, their permit was not renewed when it expired, and they were out of a job.

When some employees sought relief through the courts of Florida, they were informed that there was nothing that could be done for them under existing law. Closed shop contracts were legal, and no man had the right to work in a unionized business unless he, too, were a member of the union.

The attorney general of the State of Florida, a distinguished gentleman by the name of Tom Watson, whose forebears came from the great State of Georgia—I believe his grandfather was a member of the house of representatives—was elected with the full support of labor. But he announced in 1941 that he believed closed shop contracts violated basic human rights, and that he would do everything in his power to have them banned. In its 1941 session, the State legislature considered a right-to-work law but failed to act on it. Finally, in 1943, during the period when my distinguished colleague, the gentleman from Florida [Mr. HOLLAND] was Governor of Florida, the legislature submitted to the people of Florida for their ratification an amendment to the State constitution guaranteeing the right of every citizen to join a union or to refuse to join.

The text of the proposal was clear and straightforward:

> The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization; provided that this clause shall not be construed to deny or abridge the right of employees by and through a labor organization or labor union to bargain collectively with their employer.

In November of 1944, Florida, by a vote of 147,860 to 122,770, approved this amendment. Twice, in 1949 and in 1951, efforts were made to repeal the provision, but each time they failed.

Mr. President, I cannot support the repeal of section 14(b) of the Taft-Hartley Act. I represent the people of Florida. They, like the citizens of Arizona, Arkansas, Kansas, Mississippi, Nebraska, and South Dakota, have woven a ban on compulsory unionism into the fabric of their State constitution. They did so through use of the ballot, and I cannot, in good conscience, enter the Chamber of the U.S. Senate and cast my vote against the will of those who sent me here.

If the people of Florida, or any of the 18 other States that have enacted right-to-work laws since 1944, want to alter or abolish such legislation, they should have the opportunity to do so through the same means by which it was enacted.

In the 21 years since Florida adopted her right to work law, per capita personal income in the State has risen 106 percent. Between 1959 and 1964 alone, it climbed 37.5 percent, while personal income on the national level was increasing only 27.2 percent. In 1964, Florida's

unemployment rate was only 3.9 percent. The national rate was a much larger 4.7 percent. And, most important of all to the workingman, the average weekly wage in Florida has increased 56.6 percent in the 10 years since 1955. This is a rate of increase more than 12 percent higher than the national rate.

No reasonable man would claim that these economic gains are directly attributable to the State's right-to-work law. On the other hand, nearly every elected and appointed official of Florida, nearly every close observer of the State's economy believes that this provision has helped to create the climate of industrial peace which has been a factor in pushing our economy steadily upward.

Similar economic statistics hold true for almost every right-to-work State. Taken as a group, these States have had percentage gains in nearly every economic sector that far outstrip the advances of non-right-to-work States.

Per capita personal income in right-to-work States rose 43.7 percent between 1953 and 1963. In the rest of the Nation, it climbed only 35.4 percent.

In the decade between 1955 and 1965, the average weekly earnings of production workers soared 46.8 percent in the States that prohibit compulsory unionism. The comparable figure for the rest of the country is 42.8 percent.

Between 1953 and 1963, new manufacturing jobs grew at the rate of 12.8 percent in the 19 right-to-work States. In the 31 other States, such employment opportunities actually shrunk 7.6 percent during the same period.

Speaking in solid dollar terms, 6 of the 15 States with the highest average weekly wage for production workers have right-to-work laws. By other accepted economic indicators, retail sales, bank deposits, new capital investment, right-to-work States are moving ahead faster than the rest of the Nation.

Yet, today organized labor and its supporters petition Congress to outlaw right-to-work provisions by repealing 14(b). They come before us with a variety of arguments which, in their essentials, revolve around several key points.

First, the opponents of section 14(b) tell us that State right-to-work laws endanger the security of unions and undercut their efforts at collective bargaining with employers. These people claim that without union shop agreements, the union is never sure of its position with either employer or worker. The result is supposedly a shaky industrial peace.

Union officials also claim that the term "compulsory unionism" is a misleading one—that even under union shop agreements, employees do not have to join.

We are told that the majority should rule, and that if most of the employees of a corporation want a union, all should have to support it by contributing to its treasury.

And, there is one final argument that the attackers of 14(b) believe is unanswerable. They point out, triumphantly, that right-to-work laws are unjust because they allow workers who do not belong to the union to take a "free ride" on the toiling backs of faithful members. The "free rider," according to the argument, is the unwanted guest who sits at the table without helping to prepare the feast.

Mr. ERVIN. Mr. President, will the Senator yield for a question that pertains to the matter he is now discussing?

Mr. SMATHERS. I am happy to yield for a question.

Mr. ERVIN. Does not the so-called free rider argument come to this: That the union negotiates a contract for all the workers in a plant and confers benefits upon all workers; and that if the man is not compelled to join the union he receives the benefits without paying for them?

Mr. SMATHERS. That is the argument made.

Mr. ERVIN. I ask the Senator if the argument does not proceed to say that the majority should have the power to compel the minority to pay for the benefits which the majority is conferring on the minority.

Mr. SMATHERS. The Senator is correct. That is the argument.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that the last election showed that the Democratic Party is the majority party in this country and that the Republican Party is the minority party?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida, as a Democrat, agree with the Senator from North Carolina, as a Democrat, that the Democratic Party, as the majority party in control of the Government of the Nation, is conferring great benefits upon all Americans, Democrats and Republicans alike, by giving them the Great Society?

Mr. SMATHERS. I agree with the Senator.

Mr. ERVIN. Does not the Senator think that the free rider argument would require the Democratic Party, which is in the control of Congress, to pass some kind of law which would deny Republicans the right to earn a livelihood unless and until they make contributions to the Democratic National Committee and to the agencies of the Democratic Party, inasmuch as the Republicans are getting the benefits of the Great Society?

Mr. SMATHERS. I agree with the Senator. If the principle advanced by the union leaders is sound with respect to the minority having to join the majority, then, of course, the Republicans would have to join the Democratic Party.

Mr. ERVIN. So every time there should be an election either in the union, or in the country, or in a State, or in a municipality, or any other public subdivision, if the "free rider" argument is valid, those who are in the minority, as established in the election, would have to support the activities of the majority by contributions of money; would they not?

Mr. SMATHERS. The Senator is absolutely correct, if we carried this argument to its logical conclusion.

Mr. ERVIN. That shows how unsound the "free rider" argument is; does it not?

Mr. SMATHERS. I completely agree with the Senator.

There are going to be minorities in our country. Their rights should be respected, as the Constitution intended they should be respected, whether these minorities be religious, political, or whatever. If we put it on a straight economic basis, I believe all Democrats would agree that we have bettered the people and the country considerably more than have the Republicans. Therefore, if we accept the "free rider" argument the Republicans ought to have to join the Democratic Party or pay $2 a month or $5 a month, or whatever it is, to the Democratic National Committee.

The Senator is correct on an economic argument.

Mr. ERVIN. Does not the Senator realize that the "free rider" argument was at one time applied in the religious field, and that there were laws in this country, in certain of the Colonies, which required nonbelievers or dissenters to make contributions of money to support the established churches?

Mr. SMATHERS. I accept the statement of the Senator.

I would be glad to yield so that the Senator might expand on that a bit further.

Mr. ERVIN. Will the Senator from Florida accept the assurance of the Senator from North Carolina that the Senator from North Carolina has made a study of American history and has discovered that in a number of American States and a number of American Colonies, there were laws which required every man, whether he was a dissenter, heretic, agnostic, or infidel, to make payments to the support of the established churches?

Mr. SMATHERS. The Senator is correct. I am sure with respect to that particular point with regard to Virginia, but it is only Virginia about which I knew.

Mr. ERVIN. Yes. In the State of Virginia the founder of the great Democratic Party, Thomas Jefferson, ably assisted by another great Democrat, James Madison, made a fight to repeal those laws.

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida know that when Thomas Jefferson wrote the epitaph to be placed on the gravestone to mark the resting place of his mortal remains, he put a statement in the epitaph that he was the author of the Virginia Statute for Religious Freedom?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Did not Thomas Jefferson, when he drew the Virginia Statute for Religious Freedom, specify that he believed that to compel a man to make contributions of money for the dissemination of religious doctrine was both sinful and tyrannical?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Does not the Senator from Florida know that in recent years, instead of spending all the money derived from union dues in negotiating

contracts, many unions and foundations established by unions, have used dues paid by members under union shop agreements, for expenditures for legislative lobbying and carrying on political campaigns, and, in some cases, for subsidizing religious organizations which were engaged in disseminating religious views, which some members paying those dues disbelieve?

Mr. SMATHERS. I knew they engaged in political activities. So far as having knowledge that they were subsidizing a particular religious point of view is concerned, I had no specific knowledge of that.

I am one of whom it might be said that the full power of the union leaders opposed him. That occurred in my election in 1950. Subsequent to that, I am happy to state, I have been fortunate enough to have many union leaders for me.

In 1950, even while union leadership itself was hostile to me and fought me bitterly and poured thousands of dollars into the State to try to defeat me, I carried the two largest labor union precincts in my State, which indicated to me that the rank and file of union people do not like to be dictated to by arbitrary and often capricious labor leaders.

Mr. ERVIN. Will the Senator from Florida inspect this copy of the CIO News for July 19, 1954, and ascertain whether or not it contains a remark to the effect that the Philip Murray Foundation, which was financed by dues paid by the CIO, contributed $200,000 to the National Council of Churches?

Mr. SMATHERS. I have before me a photostatic copy of the CIO News, dated July 19, 1954, entitled "Murray Fund Gives Protestants $200,000."

If the Senator does not mind, in order that we might be clear about what we are discussing, I should like to read this. I had not known about this before and I did not know about it when the Senator addressed me with respect to union funds being used for political activity. I knew about that activity, and about lobbying, but I had not known, until now, that some dues were actually being used to finance certain religious organizations.

Mr. ERVIN. Does not the Senator from Florida agree with the Senator from North Carolina that if it was sinful and tyrannical to tax Virginians who happened to be dissenters for the support of the established church, as declared by Thomas Jefferson in the Virginia Statute for Religious Freedom, it is likewise sinful and tyrannical, or was in 1954, for the CIO to give money derived from dues-paying members, who may have been Jews or Catholics or agnostics, for the support of a Protestant organization?

Mr. SMATHERS. I agree with the Senator. It would seem to me that giving dues to this type of organization would be offensive and contrary to union practices and our laws. This was in 1954. I trust and hope that this is no longer the practice of unions.

Mr. President, the contention that right-to-work statutes imperil the security of unions is invalidated by the provision of the Taft-Hartley Act which gives unions the power to bargain for all workers in a company as soon as a majority of the workers choose that union as their bargaining agent. No nonunion employee can attempt to negotiate on his own for higher wages or better working conditions once a union has obtained exclusive bargaining rights. Therefore, the union's role as bargaining representative is unimpaired whether it operates in a State with a right-to-work law or not.

Furthermore, Federal labor legislation, consistently backed by judicial decisions, forbids employers from interfering in any way with the workingman's right to organize and negotiate. And all 19 State right-to-work laws specifically uphold this right.

One aspect of union security, the growth of union membership, has fluctuated greatly over the past 20 years. While the absolute numbers of union men have been increasing, union membership as a percentage of the total labor force of the Nation has been steadily decreasing. Yet, there is no evidence whatsoever to support the notion that 14(b) is somehow responsible for the proportional decline. It is true that some right-to-work States have experienced a dip in membership, but, in others, it has soared. For instance, between 1958 and 1962—the last period for which accurate figures are available—the AFL–CIO gained 36,000 members in Arizona, a State which has had a right-to-work law since 1946.

Even more significantly, unions in many non-right-to-work States have suffered a substantial loss of membership. Between 1958 and 1962, Ohio unions lost 250,000 members. California lost 200,000. Michigan lost 50,000.

It would be difficult to ascribe labor's apparent difficulty to recruit and retain converts in some areas to any single root cause, but as the New York Times, in an editorial of May 19, 1965, said:

> No compelling demonstration ever has been made that labor's weakness in the South and Southwest, the stronghold of right-to-work legislation, is primarily attributable to the ban on compulsory unionism. Slack organizing activities and the failure of unions to modernize the tired slogans of the 1930's offer a much better explanation for their feeble record in overcoming community hostility in the 19 States with legal prohibitions against the union shop.

In this connection, Mr. President, we would do well to remember that in such Western European lands as Austria, Belgium, Denmark, France, Holland, Norway, Sweden, Switzerland, and Western Germany, union shop or closed shop contracts are forbidden by law. Yet, in each of these nations, a larger proportion of workingmen are organized than in the United States.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. SMATHERS. I yield.

Mr. ERVIN. Is it not true that in Sweden, where unionism is entirely voluntary and everyone is free to join or to refrain from joining a union at his own pleasure, 80 percent of all eligible working persons belong to unions?

Mr. SMATHERS. The Senator is correct. Moreover, in Austria, Belgium, France, Denmark, Switzerland, and West Germany, too, where union membership is voluntary, a higher percentage of workers belong to unions than belong to unions in the United States.

Mr. ERVIN. Does the Senator from Florida see anything that can properly be designated as antiunion in a practice which allows the question as to whether a person shall join or refrain from joining a union to be determined according to such person's own freedom of choice?

Mr. SMATHERS. I completely agree with the Senator from North Carolina. It would be difficult to argue that the countries I have mentioned—Austria, Belgium, Denmark, France, Sweden, Switzerland, and West Germany—are antiunion, when a higher percentage of the people in those countries belong to unions than belong to unions in the United States. Yet there is no compulsory membership in those countries, such as some American union leaders seek to impose in the United States.

Mr. ERVIN. Do not churches and civic, fraternal, and political organizations depend upon persuasion to obtain members?

Mr. SMATHERS. The Senator is correct.

Mr. ERVIN. Is there anything that is antiunion in a person's entertaining the belief that it is not an injustice to labor unions to require them to obtain their members in exactly the same way that churches and all other voluntary organizations obtain their members?

Mr. SMATHERS. And political parties, as well. I agree with the Senator completely.

In addition, it is worth noting that, traditionally, manufacturing workers in America have been more highly organized than other employees. Although unions have expended great efforts in recent years to swell their membership rolls with white collar and service employees, their major strength still lies in the factories. Yet the rapid advance of technology has greatly altered the composition of the American work force in the past two decades. Changing labor needs have raised the number of normally nonunion white-collar jobs by about 11 million in the years between 1947 and 1964. In the same period, only about 2 million new blue-collar positions were created.

In 1947, 41 percent of working Americans had blue-collar jobs. Thirty-five percent were white-collar workers. But in 1964 white-collar workers comprised 44 percent of the labor force, and blue-collar employees represented only 36 percent.

Plainly, such drastic proportional changes—totally unrelated to right-to-work laws—have had their effect on union membership.

There is one final point relating to union security.

Labor leaders claim that when union shop agreements are in force, general industrial peace is the result. They say that labor organizations do not have to keep proving themselves in order to win members and, therefore, there are fewer work disruptions. A quick look at one

simple set of statistics demolishes this claim. In 1963, the 19 States with right-to-work laws experienced a loss of only 0.09 percent of total working time because of strikes and other work stoppages. The comparable figure in States without such legislation was nearly double, or 0.14 percent. These figures do not represent a record of amiable industrial relations in the States which permit union shop contracts.

The argument of those who seek repeal of section 14(b) that the term "compulsory unionism" is loaded, untrue, and designed to trigger emotionalism is particularly misleading. We are told that under union shop agreements, employees do not have to join the union, and therefore there is no compulsion involved. But what we are not told—and what is the key issue here—is that once a union and an employer have set up a union shop, every worker must pay an initiation fee and full dues, whether he joins the labor organization or not. He is compelled to give financial support to a group he may thoroughly dislike. If he does not, the employer has no choice but to fire him.

Mr. President, such a blatant disregard for the individual's right of free choice cannot be explained away by invoking the maxim of majority rule. We cannot say that a simple vote can rob individuals of basic freedoms that form the foundation stones of our society. As Mr. Justice Jackson said in 1943, when he spoke for the majority of the U.S. Supreme Court in West Virginia State Board of Education against Barnette:

> The very purpose of a bill of rights was to withdraw certain subjects from the vicissitudes of political controversy to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

Because 51 percent of a group desires membership in any private organization is no reason to require that the other 49 percent must join also.

This is a question that was seemingly settled in 1784, when a bill was introduced in the Virginia General Assembly to tax the population at large for the maintenance of the Christian religion.

Relying on a premise parallel to that used by unions today, supporters of this early proposal said that, because everyone in the community benefitted from the blessings of religion, everyone should have to contribute to it. James Madison, later to become President of the United States, rallied opponents of this legislation with the argument that "the same authority which can force a citizen to contribute for the support of any one establishment may force him to conform to any other establishment."

Virginia never enacted the religion tax, and in the following year, 1785, the "Statute of Virginia for Religious Freedom" was adopted, containing this statement in its preamble:

> To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical.

These words ring today with the same validity they did 180 years ago.

Unions, however, tell us that the man who will not join is a free rider and a burden on them. They say that they bargain for him as well as the other employees in an open shop; but that he does not help to defray their expenses. Yet, the exclusive bargaining rights awarded unions in the Taft-Hartley Act are something they themselves sought with great fervor. Officials of these organizations have steadfastly resisted any changes in the law which would free them of the obligation to negotiate for nonunionists in open shops. Clearly, if the so-called free rider is a burden on organized labor, he is one that was shouldered willingly.

The very term "free rider" suggests an individual who is obtaining benefits without paying for them. Therefore, those who make use of this appellation automatically assume that the activities of a union are beneficial to all its members. This is not a reasonable assumption.

Should a man work in a business whose employees are represented by one of the few racketeer-dominated unions, or by an organization being operated for the benefit of its leaders, he is not likely to feel that that representation has won him many advantages.

An individual might believe that he could negotiate a higher wage on his own, free from the restraints on production imposed by many unions. Also, he might find that the seniority system, which completely disregards talent, slows his promotion or leaves him vulnerable to frequent layoffs. Although an employee may have no personal stake in such administrative issues as the use of the "checkoff system" of collecting dues, he might well be forced to strike for them, losing time from the job and needed pay.

A worker could be opposed to causes embraced by a particular union, and a union shop arrangement would force him to subsidize that which he does not believe in.

Mr. President, labor unions have no moral right to exact fees from those who have had "services" thrust upon them. Nonunion workers are never given a voice in the counsels which approve union policy. They are not consulted over contract terms or any grievances they might have. Indeed, forced to hand his bargaining rights to a union he does not favor, the free rider becomes an unwilling passenger in a vehicle which he, as an individual, cannot control.

In addition, I am convinced that the existence of a few so-called free riders is a positive incentive toward better, more effective unionism. As Justice Louis Brandeis, a proven friend of labor, said a number of years ago:

> The union attains success when it reaches the ideal condition, and the ideal condition for a union is to be strong and stable and yet to have in the trade outside its own ranks an appreciable number of men who are nonunionist. Such a nucleus or unorganized labor will check oppression by the union as the union checks oppression by the employer.

The right of the States to shield that "nucleus of unorganized labor" by passing legislation to ban union shop contracts has been upheld time after time by the Federal judiciary.

In 1949, labor officials challenged the constitutionality of right-to-work statutes in Nebraska and North Carolina. The union claimed that the laws violated their freedoms of speech, press, and assembly; that they impaired existing contracts; and that they denied organized labor equal protection and due process of the law. Describing some of the union arguments as "rather startling ideas," the Supreme Court of the United States upheld the right-to-work laws. In the majority opinion, Mr. Justice Black wrote:

> This Court * * * has consciously returned closer and closer to the earlier constitutional principle that States have power to legislate against what are found to be injurious practices in their internal, commercial and business affairs, so long as their laws do not run afoul of some specific Federal constitutional prohibition, or of some valid Federal law * * *. Under this constitutional doctrine the due process clause is no longer to be so broadly construed that the Congress and State legislatures are put in a straitjacket when they attempt to suppress business and industrial conditions which they regard as offensive to the public welfare.
>
> Appellants now ask us to return, at least in part, to the due process philosophy that has been deliberately discarded. Claiming that the Federal Constitution itself affords protection for union members against discrimination, they nevertheless assert that the same Constitution forbids a State from providing the same protection for nonunion members. Just as we have held that the due process clause erects no obstacle to block legislative protection of union members, we now hold that legislative protection can be afforded nonunion workers.

The very same day, the Supreme Court sustained an Arizona right-to-work law in American Federation of Labor against American Sash & Door Co. And, in 1963, the Court clarified the power of State courts to enforce State right-to-law laws. It also broadened the scope of these laws by permitting States to ban additional types of union security agreements.

Mr. President, just as the U.S. Supreme Court has upheld the right of States to adopt legislation guaranteeing a worker's right to hold his job without having to pay tribute to anyone, so too, does American public opinion.

To date, more than 400 newspapers and periodicals have editorially stated support for retention of 14(b). These publications range from the liberal eastern press, including the New York Times, the New York Herald Tribune, and the Washington Post to such conservative journals as the Chicago Tribune.

Life magazine opposes repeal of 14(b), as does the Christian Science Monitor. Editor & Publisher, the trade organ of journalism, is against repeal.

On July 30 of this year, the Washington Post said:

> From the viewpoint of organized labor the vote (in the House of Representatives) to repeal section 14(b) was very pleasing, but it scarcely qualifies as well rounded legislation in the national interest.

One of the four editorials the New York Times has printed on the subject stated in part:

> But it is a callous oversimplification to suggest that no element of individual liberty is at stake and that the paramount right in the equation is that of management and labor to make whatever disposition of the workers they "deem mutually satisfactory."
>
> If the elimination of section 14(b) is the only contribution Congress can make toward a more balanced labor law, it will be better advised to leave the law alone.

The views expressed by the Times is one that knows no political party, no geographic region. From the San Francisco Examiner to the Philadelphia Enquirer, and from the Anchorage Alaska Times to the Cleveland Plain Dealer, the press in the United States uniformly reflects the convictions of the vast majority of Americans with respect to 14(b).

In my own State of Florida, the Miami Herald, the Miami News, the Orlando Sentinel, the Tampa Tribune, the Florida Times Union, and many, many others have led the battle to protect against Federal encroachment a law that was approved by the people in a free election; a law that has served us well for 21 years.

Numerous samplings of public opinion have, in various States and on the national level, demonstrated where the people stand.

Although their specific percentage findings have differed in the past, pollster after pollster has confirmed what the mail count in nearly every congressional office has indicated—that American men and women do not support the concept of compulsory unionism.

For instance, a poll conducted by Opinion Research Corp., of Princeton, N.J., earlier this year found that 70 percent of those individuals that have an opinion on this matter believe in the principle embodied in section 14(b). This is the seventh such study conducted by Opinion Research since 1944, and each succeeding one has shown a steady growth in the number of people who favor retention of 14(b).

Mr. President, the arguments over the 44 words that comprise section 14(b) of the Taft-Hartley are endless and varied. A thick fog of emotionalism shrouds every issue and deadens the voice of reason. Semantic games are played with such highly charged terms as "compulsion" and "security," and proponents and opponents alike of this legislation are left groping for the heart of the substantive question we are being asked to decide here.

Accusations that workers who will not join a labor organization are free riders, and charges that unions are getting too powerful, or infiltrated with subversives lead us no nearer to that heart. Rather, we have only to consider one simple proposition: Is a man's unfettered access to employment a right or a privilege?

Those who urge our repeal of 14(b) say that "right to work" is a misnomer and that the 19 States which have such laws do not guarantee that every one of their citizens will get a job. These individuals claim that "right to work" is an artificial label concocted to obscure the real motive of such legislation, the destruction of all unions.

No one who supports retention of 14(b) and the freedom of States to outlaw forced unionism has ever claimed that right-to-work laws automatically give every individual employment. However, we do contend that they remove unjustifiable restrictions from the right of the workingman to earn his living without paying tribute to a private organization.

We maintain that the right of each and every wage earner to make a free choice concerning union membership must be paramount over the desires of any single private group. The very spirit of America requires the preservation of this liberty. For, it was to escape compulsion that many of our forefathers came to the New World from Europe. It was to defeat coercion that their descendants fought and won the American Revolution.

We in the U.S. Senate must not and cannot shed the principles of our ancestors. We must retain section 14(b) of the Taft-Hartley Act.

Mr. HILL. Mr. President, the proposed repeal of section 14(b) of the Taft-Hartley Act raises important and vital questions regarding the constitutional relationship between the Federal Government and the respective States which should be given careful and thorough deliberation by the Members of this body. The arguments advanced by the proponents of repeal should be analyzed completely and fully, and, by the same token, the arguments against repeal must be given our most careful consideration. Only in this way can we ascertain what course will serve the best interests of organized labor, of the business community, of the individual worker, and of the American people as a whole.

One of the main arguments advanced by the proponents of repeal is that section 14(b), by permitting States to adopt restrictions on union shop agreements, creates an exception to the desired goal of a universally applicable Federal labor policy. This argument proceeds on the premise that every aspect of labor-management relationships, down to the most minute detail, must be placed under the blanket of Federal regulation, and that every vestige of State responsibility and authority should be totally and completely removed.

Unless this is done, the proponents of repeal assert, the States are in a position to frustrate the purposes of the national labor policy, and instead of having a single uniform labor policy applicable to all activities in interstate commerce, there will be a multiplicity of diverse rules and policies applied by the individual States. The union shop, they argue, is sanctioned and approved by the national labor policy as expressed in the National Labor Relations Act, and this labor policy should have uniform application throughout all of the States.

In order to answer these contentions and to put in proper perspective this subject of Federal-State authority in labor-management matters, I want to review the historical development of Federal legislation pertaining to labor disputes and labor relations affecting interstate commerce. This background will show that the true and proper relationship between Federal and State authority in this field does not in any way justify the proposed repeal of section 14(b) of the National Labor Relations Act, and that it has never been the policy of Federal labor legislation to encourage or sanction compulsory unionism in the form of compulsory union shop agreements or in any other form. I say this as one who has always been a friend of the workingman and as one who continues to be a friend of the workingman.

Mr. President, the proper starting point in a review of the historical development of Federal legislation pertaining to labor disputes and labor relations affecting interstate commerce is the Clayton Act.

The Clayton Act derives its name from the late Judge Henry D. Clayton, who was for many years a Member of the House of Representatives from my State of Alabama. He became chairman of the House Committee on the Judiciary, and was the author of the act which now bears his name, the Clayton Antitrust Act.

That act, which was passed in 1914, contained the first substantive expression of Federal labor policy. The act provided that nothing in the antitrust laws should be construed as to prevent the existence and operation of labor unions, nor should such organizations be considered illegal combinations in restraint of trade under the antitrust laws. Section 6 of the Clayton Act provided as follows:

> That labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profits, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

The effect of that section was to grant to workers a legal guarantee of the right to organize, a right which up to that time had been established only by judicial opinions and not by statute.

Later, in 1926, the Railway Labor Act stated in section 2:

> Employees shall have the right to organize and bargain collectively through representatives of their own choosing.

The 1926 act went on to state that a majority of employees shall have this right and that no carrier, its officers or agents, shall deny this right or interfere in any way with the organization of its employees.

Again, in 1932, Congress reaffirmed the right of the worker to organize by passage of the Norris-LaGuardia Act.

In section 102 we find the expressed policy:

The individual unorganized worker * * * should be free to decline to associate with his fellows—

But should also—

have full freedom of association, self-organization and designation of representatives of his own choosing.

The right to negotiate the terms and conditions of his employment, and to be free from employer interference is also included in the Norris-LaGuardia Act.

Mr. President, that language, as is obvious from reading it, strikes at compulsory membership as well as compulsory nonmembership. Further confirmation of this contention is found in the 1934 Railway Labor Act. The 1926 act merely provided the machinery for settling labor disputes. Consequently, when the 1934 act became law it contained a provision for voluntary membership and banned the compulsory union shop in order to weaken company unions which had grown up during the interim. The pertinent provisions of that act are as follows:

4. Employees shall have the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for the purposes of this Act. No carrier, its officers or agents, shall deny or in any way question the right of its employees to join, organize, or assist in organizing the labor organization of their choice, and it shall be unlawful for any carrier to interfere in any way with the organization of its employees, or to use the funds of the carrier in maintaining or assisting or contributing to any labor organization, labor representative, or other agency of collective bargaining, or in performing any work therefor, or to influence or coerce employees in an effort to induce them to join or remain or not to join or remain members of any labor organization or to deduct from the wages of employees any dues, fees, assessments, or other contributions payable to labor organizations, or to collect or to assist in the collection of any such dues, fees, assessments, or other contributions.

The National Industrial Recovery Act—NIRA—of 1933 again reaffirmed the right of employees to organize and also stated that no employee shall be forced to join a union. However, the NIRA was declared unconstitutional in 1935 and that same year the Wagner Act guaranteed the legal right to organize and bargain collectively free of employer interference. The Wagner Act, however, said nothing about the right not to join a union. This silence was immediately construed by labor unions as a sanction to impose closed-shop and union-shop conditions upon American workers, and during the great organizing drives of the 1930's and early 1940's a major objective of organized labor was to obtain closed-shop or union-shop agreements from employers wherever possible.

These efforts resulted in widespread public reaction against compulsory unionism, and a number of States began to consider adoption of laws to restrict or prohibit compulsory unionism. A number of States, as we shall hereafter see, adopted outright prohibitions upon the closed shop, the union shop, and other forms of compulsory unionism, while other States adopted statutory provisions which required the approval of any union-shop agreement by a secret ballot referendum of at least two-thirds of the employees in the bargaining unit affected. One of the States in this latter category was Wisconsin, which adopted on May 4, 1939, a statute known as the Wisconsin Employment Peace Act which provided in section 111.06 in pertinent part, as follows:

An employer shall not be prohibited from entering into an all-union agreement with the representatives of his employees in a collective-bargaining unit, where at least two-thirds of such employees voting (provided such two-thirds of the employees also constitute at least a majority of the employees in such collective-bargaining unit) have voted affirmatively by secret ballot in favor of such all-union agreement in a referendum conducted by the Board. Such authorization of an all-union agreement shall be deemed to continue thereafter, subject to the right of either party to the all-union agreement to request the Board in writing to conduct a new referendum on the subject. Upon receipt of such request by either party to the agreement, the Board shall determine whether there is reasonable ground to believe that there exists a change in the attitude of the employees concerned toward the all-union agreement since the prior referendum and upon so finding the Board shall conduct a new referendum. If the continuance of the all-union agreement is supported on any such referendum by a vote at least equal to that hereinabove provided for its initial authorization, it may be continued in force thereafter, subject to the right to request a further vote by the procedure hereinabove set forth. If the continuance of the all-union agreement is not thus supported on any such referendum, it shall be deemed terminated at the termination of the contract of which it is then a part or at the end of 1 year from the date of the announcement by the Board of the result of the referendum, whichever proves to be the earlier date. The Board shall declare any such all-union agreement terminated whenever it finds that the labor organization involved has unreasonably refused to receive as a member any employee of such employer, and each such all-union agreement shall be made subject to this duty of the Board. Any person interested may come before the Board as provided in section 111.07 and ask the performance of this duty.

The first real test of a State's authority to adopt restrictions on compulsory unionism was presented to the courts in *Algoma Plywood and Veneer Company* v. *Wisconsin Employment Relations Board*, 252 Wisconsin 549, affirmed 336, U.S. 301.

The facts in that case show that Algoma Plywood Co. entered into a collective bargaining agreement with local 1521 of the Carpenters Union in 1943 whereby all employees in the bargaining unit who became union members were required to maintain their membership as a condition of employment. One employee, Victor Moreau, was discharged by the company in January 1947 for failure to pay union dues. Moreau thereafter filed with the Wisconsin Employment Relations Board a complaint charging the company with an unfair labor practice under section 111.06 of the Wisconsin Employment Peace Act.

Since no union shop referendum had been conducted at the Algoma plant, as required by the Wisconsin statute, the Board ordered the company to desist from giving effect to the maintenance of membership clause, to offer Moreau reinstatement, and to pay him any lost pay as a result of his discharge. The company and the union filed a petition for review of this order by the Wisconsin courts. In so doing, the company and the union challenged the jurisdiction of the Wisconsin Employment Relations Board to enforce the provisions of the Employment Peace Act on the ground that the Federal Government had completely preempted the jurisdiction of the State board by adoption of the National Labor Relations Act—the Wagner Act—in 1935. The Supreme Court of Wisconsin sustained the jurisdiction of the State board, and directed enforcement of its order for reinstatement of the discharged employee with back pay.

The case was then appealed to the U.S. Supreme Court by the company and the union and in a decision written by Justice Frankfurter the Court on March 7, 1949, affirmed the decision of the Supreme Court of Wisconsin. At this point, I believe that Members of the Senate would be interested in hearing precisely what Justice Frankfurter and his colleagues on the Supreme Court had to say in regard to the question of whether the national labor policy, as expressed in the National Labor Relations Act, and the Taft-Hartley amendments to that act, gave sanction or encouragement to union shop agreements, or whether the National Labor Relations Act—in its original form in the Wagner Act—deprived the States of jurisdiction to deal with such matters.

The Court pointed out that in the original Wagner Act enacted in 1935 there was never any intent to override or displace the authority of the States to deal with the problem of compulsory unionism. The States had this authority before the passage of the Wagner Act and they continued to have this authority after passage of the Wagner Act. As a matter of fact, 11 States had already enacted right to work laws by the time the Taft-Hartley Act amendments to the Wagner Act were adopted in 1947. Because of the importance of the decision of the Supreme Court in the Algoma Plywood Co. case, and in order that we may more fully understand the problem here involved, I should like to read the substantive portion of that decision:

In seeking to show that the Wisconsin board had no power to make the contested orders, petitioner points first to section 10(a) of the National Labor Relations Act, which is set forth in the margin. It argues that the grant to the National Labor Relations Board of exclusive power to prevent any unfair labor practice thereby displaced State power to deal with such practices, provided of course that the practice was one affecting commerce. But this argument implies two equally untenable assumptions. One requires disregard of the parenthetical phrase "(listed in section 8)"; the other depends upon attaching to the section as it stands, the clause "and no other agency shall have power to prevent unfair labor practices not listed in section 8."

The term "unfair labor practice" is not a term of art having an independent significance which transcends its statutory definition.

The States are free (apart from preemption by Congress) to characterize any wrong of any kind by an employer to an employee, whether statutorily created or known to the common law, as an unfair labor practice. At the time when the National Labor Relations Act was adopted, the courts of many States, at least under some circumstances, denied validity to union-security agreements. See 1 Teller, "Labor Disputes & Collective Bargaining," section 170 (1940). Here Wisconsin has attached conditions to their enforcement and has called the voluntary observance of such a contract when those conditions have not been met an unfair labor practice. Had the sponsors of the National Labor Relations Act meant to deny effect to State policies inconsistent with the unrestricted enforcement of union-shop contracts, surely they would have made their purpose manifest. So far as appears from the committee reports, however, section 10(a) was designed, as its language declares, merely to preclude conflict in the administration of remedies for the practices proscribed by section 8. The House report, after summarizing the provisions of the section, adds "The Board is thus made the paramount agency for dealing with the unfair labor practices described in the bill," (H. Rept. No. 969, 74th Cong. 1st sess., 21. See also the identical language of H. Rept. No. 972, 74th Cong., 1st sess., 21, and H. Rept. No. 1147, 74th Cong. 1st sess. 23). And the Senate report describes the purpose of the section as "intended to dispel the confusion resulting from dispersion of authority and to establish a single paramount administrative or quasijudicial authority in connection with the development of the Federal American law regarding collective bargaining" (S. Rept. No. 573, 74th Cong., 1st sess. 15).

The contention that section 10(a) of the Wagner Act swept aside State law respecting the union shop must therefore be rejected. If any provision of the act had that effect, it could only have been section 8(3), which explicitly deals with membership in a union as a condition of employment. We now turn to consideration of that section.

Section 8(3) provides that it shall be an unfair labor practice for an employer "by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided*, That nothing in this act * * *, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization * * * to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 9(a), in the appropriate collective bargaining unit covered by such agreement when made."

It is argued, therefore, that a State cannot forbid what section 8(3) affirmatively permits. The short answer is that section 8(3) merely disclaims a national policy hostile to the closed shop or other forms of union-security agreement. This is the obvious inference to be drawn from the choice of the words "nothing in this act * * * or in any other statute of the United States," and it is confirmed by the legislative history.

The Senate report on the bill which was to become the National Labor Relations Act has this to say about section 8(3):

"The proviso attached to the third unfair labor practice deals with the question of the closed shop. Propaganda has been widespread that this proviso attaches special legal sanctions to the closed shop or seeks to impose it upon all industry. This propaganda is absolutely false. The reason for the insertion of the proviso is as follows: According to some interpretations, the provision of section 7(a) of the National Industrial Recovery Act, assuring the freedom of employees 'to organize and bargain collectively through representatives of their own choosing,' was deemed to illegalize the closed shop. The committee feels that this was not the intent of Congress when it wrote section 7(a); that it is not the intent of Congress today; and that it is not desirable to interfere in this drastic way with the laws of the several States on this subject.

"But to prevent similar misconceptions of this bill, the proviso in question states that nothing in this bill, or in any other law of the United States, or in any code or agreement approved or prescribed thereunder, shall be held to prevent the making of closed-shop agreements between employers and employees. In other words, the bill does nothing to facilitate closed-shop agreements or to make them legal in any State where they may be illegal; it does not interfere with the status quo on this debatable subject but leaves the way open to such agreements as might now be legally consummated" (S. Rept. No. 573, 74th Cong., 1st sess., 11–12).

The House report contains similar language:

"The proviso to the third unfair labor practice, dealing with the making of closed-shop agreements, has been widely misrepresented. The proviso does not impose a closed shop on all industry; it does not give new legal sanctions to the closed shop. All that it does is to eliminate the doubts and misconstructions in regard to the effect of section 7(a) upon closed-shop agreements, and the possible repetition of such doubts and misconstructions under this bill, by providing that nothing in the bill or in section 7(a) or in any other statute of the United States shall illegalize a closed-shop agreement between an employer and a labor organization, provided such organization has not been established, maintained, or assisted by any action defined in the bill as an unfair labor practice and is the choice of a majority of the employees, as provided in section 9(a), in the appropriate collective bargaining unit covered by the agreement when made. The bill does nothing to legalize the closed-shop agreement in the States where it may be illegal; but the committee is confident that it would not be the desire of Congress to enact a general ban upon closed-shop agreements in the States where they are legal. And it should be emphasized that no closed shop may be effected unless it is assented to by the employer" (H. Rept. No. 969, 74th Cong., 1st sess., 17; see also the identical language in H. Rept. No. 972, 74th Cong., 1st sess., 17, and H. Rept. No. 1147, 74th Cong., 1st sess., 19–20).

In his major speech to the Senate in support of the bill, Senator Wagner said: "While outlawing the organization that is interfered with by the employer, this bill does not establish the closed shop or even encourage it. The much-discussed closed-shop proviso merely states that nothing in any Federal law shall be held to illegalize the confirmation of voluntary closed-shop agreements between employers and workers" (79 CONGRESSIONAL RECORD, 7570).

The Senator went on to explain the purpose of the section as dispelling misunderstanding of section 7(a) of the National Industrial Recovery Act [June 16, 1933] 48 Stat. 195, 198, c 90, denied either advocacy or disapproval of the closed shop, then added:

"The virulent propaganda to the effect that this bill encourages the closed shop is outrageous in view of the fact that in two respects it actually narrows the now-existing law in regard to the closed-shop agreement." Ibid.

Later, during discussion of proposed amendments, Senator Wagner answered a question from the floor about the effect of the proviso in the following words: "The provision will not change the status quo. That is the law today; and wherever it is the law today that a closed-shop agreement can be made, it will continue to be the law. By this bill we do not change that situation" (Id. at 7673).

In other words, it is a matter left entirely to the States, and this amendment does not change that status.

Mr. McNAMARA. Mr. President, will the Senator yield?

Mr. HILL. I yield to the Senator from Michigan.

Mr. McNAMARA. I ask the distinguished chairman of the Committee on Labor and Public Welfare if that was true not only during the period he has referred to, but today; namely, that the closed shop is outlawed by Federal law.

Mr. HILL. I was referring to the Wagner Act.

Mr. McNAMARA. It was outlawed at that time, and it is outlawed today.

Mr. HILL. That is correct; but the argument I have been making is that the States have the right today to say that there shall be no compulsory labor unionism.

Mr. McNAMARA. If the Senator is talking about the closed shop in the same vein that he is talking about compulsory unionism, then no State law is needed, because Federal law outlaws the closed shop.

Mr. HILL. The Federal law does; and the States have a right to outlaw compulsory union membership.

Mr. McNAMARA. By another section of the bill.

Mr. HILL. The States have a right to do it. We seek to preserve that right for the States. We think it is inherent and fundamental in the rights and sovereignty of the States.

I continue the quotation:

Equally conclusive is the answer by Representative Connery, manager of the bill in the House, to a statement by Representative Taber in support of an amendment which would have entirely stricken the proviso. Representative Taber charged that the proviso would make it possible for 51 percent of the employees of any organization to bring about the discharge of the other 49 percent. Representative Connery said:

"Mr. Chairman, I merely rise to say this in opposition: The closed-shop proposition in this bill does not refer to any State which has any law forbidding the closed shop. It does not interfere with that in any way," id. at 9726.

No ruling by the courts or the National Labor Relations Board, the agency entrusted with administration of the Wagner Act, has adopted a construction of section 8(3) in disregard of this legislative history. It is suggested, however, that the interpretation given the section by the War Labor Board supports petitioner's position. The Board, it is true, in view of the practical desirability of the maintenance-of-membership clause in settling wartime disputes over union security found authority to order contracts containing such clauses despite inconsistent State law. It found such authority, however, not in section 8(3) but in the conclusion that "its power to direct the parties to abide by the maintenance-of-membership provision in such a case as this one stems directly from the war powers of the U.S. Government" (Greenebaum Tanning Co., 10 War Lab. Rep. 527, 534). The Supreme Court of Wisconsin itself acknowledged the supremacy of the war power in a decision suspending an order directing the reinstatement of an employee discharged under a maintenance-of-membership clause ordered by the War Labor Board (*International Brotherhood of Paper*

Makers, A.F.L. v. *Wisconsin Employment Relations Bd.*, 245 Wis. 541, 15 NW2d 806). When the orders of the Wisconsin Board in the present case were entered, the War Labor Board had ceased to exist, Executive Order No. 9672, 11 Federal Register 221, and, with the occasion that had called it into being, the necessity for suppression of State law had also come to an end.

Mr. LONG of Louisiana. Mr. President, will the Senator yield at that point?

Mr. HILL. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Is it not true that to a very large extent the Wagner Act and the Taft-Hartley Act proposed to say that in view of the fact that business and industry had become so great and were active in all 50 States, they could not be regulated adequately in their relationships by State law; therefore, only the Federal Government was big enough to regulate this type of relationship and try to set a pattern under which negotiations could be conducted?

In other words, is it not correct to say that the whole theory of the Wagner Act, as well as the Taft-Hartley Act, was that we have to proceed on the assumption that these negotiations extended across State boundaries in such magnitude that the States could not effectively regulate the relationships when big business negotiated with management.

Mr. HILL. Section 14(b) expressly left it to the States to make the determination whether there should be compulsory union labor in those States. Nineteen States have acted to say that a man does not have to belong to a union, pay union dues, or be subject to the bosses of the union in order to work, and to earn his meat and bread for himself, for his wife, his family, and dependents.

Mr. LONG of Louisiana. Is it not fair to say, with regard to most issues of labor-management relationships, that it was recognized that where these matters involve interstate commerce and vitally affect interstate commerce, because of the magnitude and extensive interstate relationships of management-labor contracts, the authority of the Federal Government became the rule rather than the exception?

Mr. HILL. Undoubtedly the Federal Government exercised great authority. But when Congress passed the Taft-Hartley Act in 1947, through section 14(b) the Federal Government expressly left it to the States to make the determination as to whether or not in the particular State there should be compulsory labor unionism.

Mr. LONG of Louisiana. They did with regard to this particular matter.

But I ask the Senator if it is not fair to say with regard to the question of whether there should be a closed shop contract, as well as with regard to most of the questions that arise between management and labor which would be subject to regulation by State or Federal Government, that those acts make a rule that Federal law would apply, and it could not be said that 14(b) was an exception to the rule, rather than the general rule that applies nowadays?

Mr. HILL. In many cases the Federal Government did assume the power to regulate labor-management relations. There is no doubt about it.

But in section 14(b), as passed by the Congress in 1947, the Federal Government expressly left it to the States to make the determination as to whether there should be compulsory unionism within their boundaries.

Mr. LONG of Louisiana. The point that I wanted to make is that the laws that have been passed by Congress, and the practices that have grown thereunder, particularly insofar as large corporations and large unions are concerned, have made State jurisdiction the exception rather than the rule.

While I concede that the States act in the field, it seems to this Senator that the Federal Government intervened in this field and legislated extensively with one act that was regarded as a prolabor act, and another act that was regarded as a promanagement act—the latter being the Taft-Hartley Act. The effective legislation has gone to the extent that I ask the Senator if it is not true, generally speaking, in the labor-management field it is more a matter of Federal activity today than State activity?

Mr. HILL. In many activities in the labor-management field, it is a question of the exercise of Federal power or exercise of State power, but the question now before us has been left and was left, through section 14(b) in the Taft-Hartley Act, definitely and expressly to the States. There is no question about that.

The report continued:

Since we would be wholly unjustified, therefore, in rejecting the legislative interpretation of section 8(3) placed upon it at the time of its enactment, it is not even necessary to invoke the principle that in cases of concurrent power over commerce State law remains effective so long as Congress has not manifested an unambiguous purpose that it should be supplanted. See, e.g., *Sinnot* v. *Davenport*, 22 How. (U.S.) 227, 16 L. ed. 243; *Missouri, K. & T.R. Co.* v. *Haber*, 169 U.S. 613, 42 L. ed. 878, 18 Supreme Court 488. Nor need we, if Congress in enacting section 8(3) did not mean to enlarge the right to bargain for union security, consider contentions based on *Hill* v. *Florida*, 325 U.S. 538, 89 L. ed. 1782, 65 Supreme Court 1373, to the effect that in guaranteeing the right to collective bargaining the National Labor Relations Act also guaranteed the right to contract upon any terms which are commonly the subject of collective bargaining.

We come now to the question whether the Taft-Hartley Act expresses a policy inconsistent with section 111.06(1)(c) of the Wisconsin Employment Peace Act.

Section 10(a) of the Taft-Hartley Act, 29 USCA, section 160(a), 9 FCA title 29, section 160(a), which is set forth in the margin, contains important changes, but none requiring modification of the conclusions we have reached as to the corresponding section of the National Labor Relations Act. One phrase, however, reinforces those conclusions; that is the phrase "inconsistent with the corresponding provision of this act."

These words must mean that cession of jurisdiction is to take place only where State and Federal laws have parallel provisions. Where the State and Federal laws do not overlap, no cession is necessary because the State's jurisdiction is unimpaired. This reading is confirmed by the purpose of the proviso in which the phrase is contained: to meet situations made possible by *Bethlehem Steel Corp.* v. *New York State Labor Relations Bd.*, 330 U.S. 767, 91 L. Ed. 1234, 67 S. Ct. 1026, where no State agency would be free to take jurisdiction of cases over which the National Board had declined jurisdiction. (See H. Rept. No. 245, 80th Cong., 1st sess., 40; Senate minority Rept. No. 105, p. 2, 80th Cong., 1st sess., 38.)

Other provisions of the Taft-Hartley Act make it even clearer than the National Labor Relations Act that the States are left free to pursue their own more restrictive policies in the matter of union-security agreements. Because section 8(3) of the new act forbids the closed shop and strictly regulates the conditions under which a union-shop agreement may be entered, section 14(b), 29 U.S.C.A. section 164(b), 9 F.C.A., title 29, section 164(b) was included to forestall the inference that Federal policy was to be exclusive.

Congress provided in clear, unequivocal terms, that the Federal policy was to be excluded and that these rights were to be reserved to the States.

It reads:

Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.

In other words, it leaves it up to the States.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. LONG of Louisiana. Does the Senator really have any doubt that while we concede that the law does leave it up to the States to make that decision, the Federal Government can change that law, and that a change of the law to provide that the Federal Government may act in this field and say that a union shop contract would be legal, would be a valid constitutional act of Congress, if passed?

Mr. HILL. The Senator would have to present that case fully and thoroughly. As I understand our system of government, from the very beginning these rights have been reserved to the States. Only where there is an impelling need for jurisdiction will authority be granted to the Federal Government to act in the matter.

Mr. LONG of Louisiana. Does not the Senator understand that in the event the bill can be brought before the Senate—and there seems to be some doubt about it—we propose to present that case and urge, with considerable logic, that this is an area in which the Federal Government has the power to act, and that this would be an appropriate modification of the law, to be made in accordance with the commitment of the President and the commitment of Senators and Representatives, who have discussed it and have heard it discussed, and who believe that it would be an appropriate modification of the law?

Mr. HILL. If the Senator from Louisiana has his way, he will seek to have that very thing done. That is very clear. But it happens that in this case the Senator from Louisiana and I are not in agreement at all.

Mr. LONG of Louisiana. I thank the Senator from Alabama.

Mr. HILL. I continue to read:

It is argued, however, that the effect of this section is to displace State law which regulates but does not wholly prohibit agreements requiring membership in a labor organization as a condition of employment. But if there could be any doubt that the language of the section means that the act shall not be construed to authorize any application of a union-security contract, such as discharging an employee, which under the circumstances is prohibited by the State, the legislative history of the section would dispel it. (See S. Rept. No. 105, 80th Cong., 1st sess. 5–7; H. Rept. No. 245, 80th Cong., 1st sess. 9, 34, 40, 44; House Conference Rept. No. 510, 80th Cong., 1st sess. 60; 93 CONGRESSIONAL RECORD 3554, 3559, 4904, 6383–84, 6446; 94 CONGRESSIONAL RECORD 3613 (Apr. 16, 1947); id. at 3617–18; H.R. 3020, as reported, sec. 13.)

It remains to consider whether certification of the Union by the National Labor Relations Board in 1942 thereby forever ousted jurisdiction of the Wisconsin board to enjoin practices forbidden by Wisconsin law. Since the enumeration by the Wagner Act and the Taft-Hartley Act of unfair labor practices over which the National Board has exclusive jurisdiction does not prevent the States from enforcing their own policies in matters not governed by the Federal law, such freedom of action by a State cannot be lost because the National Board has once held an election under the Wagner Act. The character of activities left to State regulation is not changed by the fact of certification. Certification, it is true, makes clear that the employer and the union are subject to Federal law, but that is not disputed. So far as the relationship of State and National power is concerned, certification amounts to no more than an assertion that as to this employer the State shall not impose a policy inconsistent with national policy (*Hill* v. *Florida*, 325 U.S. 538, 89 L. Ed. 1782, 65 S. Ct. 1373), or the National Board's interpretation of that policy (*Bethlehem Steel Co.* v. *New York State Labor Relations Bd.*, 330 U.S. 767, 91 L.Ed. 1234, 67 S. Ct. 1062; *La Crosse Teleph. Corp.* v. *Wisconsin Employment Relations Bd.*, 336 U.S. 18, ante, 463, 69 S. Ct. 379). Indeed, the express disclaimer in section 8(3) of the National Labor Relations Act of intention to interfere with State law and the permission granted the States by section 14(b) of the Taft-Hartley Act to carry out policies inconsistent with the Taft-Hartley Act itself, would be practically meaningless if so easily avoided. For these provisions can have application, obviously, only where State and Federal power are concurrent; it would have been futile to disclaim the assertion of Federal policy over areas which the commerce power does not reach.

Since, therefore, the effect given the Wisconsin Employment Peace Act by the judgment below does not conflict with the enacted policies of Congress, that judgment is affirmed.

That judgment, as we know, was that this is a power reserved and left to the States to make the determination as to whether there should be a compulsory union shop.

Mr. President, in order to understand fully the legislative scheme of regulation incorporated in the National Labor Relations Act, it should be remembered that as originally enacted that act dealt only with certain described unfair labor practices by employers. It imposed no sanctions or restrictions upon the activities or conduct of labor organizations. For that reason, the court held that during the Wagner Act period the States remained free to regulate broad areas of union conduct even though such regulation affected interstate commerce. The Federal Government had not "entered the field," as stated by the Supreme Court in *Allen Bradley Local* v. *Wisconsin Employment Relations Board*, 315 U.S. 740 (1942), and there was, therefore, no ground for the assertion of a Federal preemption argument.

Thus, as the law stood in 1947 when Congress undertook to revise the Wagner Act the States had power to restrict or forbid compulsory unionism agreements of all types, including the agency shop.

In the Taft-Hartley Act Congress for the first time undertook to regulate the activities of labor unions. It amended section 8 of the National Labor Relations Act so as to add to the existing list of employer unfair labor practices. In addition, because of the abuses which had grown up in connection with the closed shop, Congress determined that as a matter of national policy the closed shop should be outlawed, just as the Senator from Michigan [Mr. MCNAMARA] stated earlier. In order to accomplish this it simply retained the language of the original proviso to section 8(3) that:

Nothing in this Act, or in any other statute of the United States shall preclude an employer from making an agreement with a labor organization * * * to require as a condition of employment membership therein—

But added the following at the end of the above sentence:

On or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later: *Provided further*, That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

In order to dispel any possible inference that these amendments constituted an enlargement of Congress' regulatory power as respects other forms of union security agreements, the further provision was added as section 14(b) proclaiming that:

Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or territory in which such execution or application is prohibited by State or territorial law.

As we see, Mr. President, the language of 14(b) makes it abundantly clear that the section was intended to remove any doubt that the States would continue to have authority to regulate or restrict all forms of compulsory unionism agreements. And I use the word "continue" because the States have always had this inherent authority from the beginning of the Republic. This was not changed by section 14(b) of Taft-Hartley. That section did not give any authority to the States—it merely confirmed that the States already had the authority and always had had.

The fundamental nature of the right to work was first proclaimed by the U.S. Supreme Court in the case of *Cummins* v. *Missouri*, 4 Wall 277 (1866), and since that time it has been enunciated on many occasions both judicially and otherwise. In 1915 the right to work was declared to be a plain and self-evident principle of American constitutional law by Justice Charles Evans Hughes—who later became a great Chief Justice of the Supreme Court—when he declared, in *Truax* v. *Raich*, 239 U.S. 33, 41 (1915):

It requires no argument to show that the right to work for a living in the common occupations is of the very essence of the personal freedom and opportunity that it was the purpose of the amendment to secure.

Mr. President, under our concept of individual liberty and the dignity of man, every man has the right to an opportunity to procure the means of survival. To deny this right is not only a deprivation of liberty but a danger to advancement in life and even to life itself. I hope that everyone in this Senate on both sides of the issue will ponder this thought and will be mindful of the words of Mr. Justice Terrell of the Florida Supreme Court when deciding how to vote on the proposal before us. Justice Terrell in the 1952 case of *Carpenters District Council* v. *Miami Chapter, Associated General Contractors*, 55 So. 2d 794, 796 (1952), declared:

The right to work is equivalent to the right to eat and the right to eat and provide raiment for his dependents is man's most dominant urge * * * Such a requirement—

That is, Mr. President, membership in a lodge, craft, church, or other organization, as Judge Terrell put it—

is contrary to the spirit of our institutions, the basis on which our democracy was founded and every impulse of the forefathers who gave it existence. I can think of nothing more out of harmony with true Americanism. Membership in one's lodge, craft or church may be a means of enlarging spiritual, cultural and physical assets, but to make his bread depend on craft, or church membership would be the worst species of anti-Americanism.

(During the delivery of Mr. HILL's speech:)

Mr. HILL. Mr. President, I ask unanimous consent that, without losing my right to the floor and with my speech continuing as my sole, one speech, I may yield to the distinguished Senator from Mississippi [Mr. EASTLAND] to present another matter to the Senate; with the further understanding that the interruption appear in the RECORD at the conclusion of my remarks today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF PARAGRAPH (a) OF THE ACT OF MARCH 4, 1913, AS AMENDED

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1689) to amend paragraph (a) of the act of March 4, 1913, as amended by the act of

January 31, 1931 (16 U.S.C. 502), which was, on page 1, line 7, strike out all after "promoted" over through and including line 2, page 2, and insert "thereby. As soon as practicable after the end of each fiscal year the Secretary shall transmit to the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a statement of rentals under the authority of this paragraph during the fiscal year."

Mr. EASTLAND. Mr. President, as passed by the Senate the bill would have increased the amount that the Forest Service could pay its employees for property rented from them in any year from $3,000 to $20,000. The House amendment strikes out the $20,000 limit and provides instead for annual reports to the Senate and House Committees on Agriculture, stating the total amount of rental paid each year.

The House provision would appear to be preferable to the Senate provision.

Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to.

ORDER OF BUSINESS

The following routine business was transacted by unanimous consent during the consideration of the pending motion to proceed to the consideration of H.R. 77:

PRESIDENT JOHNSON HELPS TO BRIGHTEN THE TORCH OF LIBERTY

Mr. RANDOLPH. Mr. President, we all know how important it is for a leader to lift the spirits of a people.

When President Johnson signed the immigration bill at the historic site of the Statue of Liberty, one could sense that he was helping the famed Lady of Liberty hold the torch, and help it burn more brightly.

This is a spirit which he endows in so many of the people: a spirit that the man counts, that a man must be judged by his own worth, and not what country he or his forefathers have come from to our Nation.

The inscription on the statue is symbolic, welcoming as it does the tired, the poor, those "yearning to be free."

Here, a man can breathe the air of freedom—and share responsibility with fellow citizens.

As the President said, the days of unlimited immigration are past, but the new act, which I supported, will mean that those in the future who come will be here because of what they are, and not because of the particular land in which they were born.

I emphasize our separate and shared responsibility. The Father of our Country, George Washington in essence, wrote: "Citizens, by birth or choice of a common country, that country should concentrate your affection."

THE ALTERNATIVE AT THE U.N.

Mrs. SMITH. Mr. President, one of the best informed Americans on international affairs is the CBS analyst and commentator, Richard C. Hottelet, whose reportorial beat is the United Nations. Not only does Mr. Hottelet have one of the keenest minds in the world, but he possesses objectivity and perspective in degree rarely found.

For these reasons, his analyses and comments are of great interest and significance to me. One of his most recent analyses is that appearing in the September 27, 1965, issue of the New Leader under the title of "The Alternative at the U.N." It is a revealing and thought-provoking evaluation of the United Nations in the current Indian-Pakistani crisis over Kashmir. I commend it to everyone as must reading and in doing so I ask unanimous consent that it be placed in the body of the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ALTERNATIVE AT THE U.N.

(By Richard C. Hottelet)

UNITED NATIONS.—Early in September, a reporter asked Ambassador Arthur Goldberg how he was enjoying his assignment to the United Nations. Goldberg replied with the story of the GI, invited to one of the great manor houses of England during World War II, who was asked a similar question and gave this answer: "If the water had been as cold as the soup, and the soup as warm as the wine, and the wine as old as the chicken, and the chicken as young as the maid, and the maid as willing as the Duchess it would have been great."

The word "if" governs not only Goldberg's experience but also the prospects of the 20th General Assembly, which opened last week. Quite possibly, in greater measure than ever before, it also governs the future of the United Nations.

Facing the U.N. as the Assembly convened was the Kashmir crisis, the war between India and Pakistan, with its disastrous implications for the moral standing and the political effectiveness of the organization. All the more so, since this problem is not an isolated emergency for the U.N. but another reflection of the inner struggle over peacekeeping—raising anew all the Charter questions which have tortured the membership for the past few years, and posing another sad comparison of the hopes of 1945 with the realities of today. Communist China, which did not exist when the United Nations was founded, adds a new, sinister, dangerous dimension to world affairs. Peiping defies and ridicules the organization in an open challenge of its credibility.

Kashmir, to use the starting point as the simple label for the whole complex antagonism centering upon India and Pakistan, is an unsubtle reminder that the U.N. is made up of sovereign states. They may solve problems—as might be said to have been the case with West Irian or even the Congo; they may simply put them in a bottle in the hope that passage of time and commonsense will dry them up—as was the case with Kashmir and Palestine and Cyprus. In their capacity as the United Nations they may ignore the most pressing dangers altogether—as they have done with Berlin, with China's 1962 invasion of India, and so far with Vietnam.

Whatever they do or leave undone, they are free to apply the loftiest charter principles to the problems of others while they walk the low road of their own interests. Dozens of disputes around the world—over such matters as borders, subversive emigrees, and direct interference—show this double standard to be pretty nearly universal. And Indonesia's open and violent determination to crush Malaysia shows the lengths to which it can be carried. But Kashmir has now confronted the U.N. with actual war between members for the first time since the Suez affair of 1956, and the organization is no longer the instrument for peace that it was then.

Suez was a triumph for the U.N. and for Dag Hammarskjold. He used the occasion to write a new set of rules for international intervention in the cause of peace that was carried still further in the Congo, and which even today contributes materially to stability in the Middle East. He was able to act swiftly then because the United States was ready to join the Soviet Union in action against two American allies. At the same moment, and by the same token, Hammarskjold and the General Assembly were unable to do more than cry out in impotence against the Soviet rape of Hungary because the Soviet Union would not submit to the authority of the United Nations.

Kashmir found the United States and the Soviet Union together again, at least in calling for a cease-fire and a withdrawal of troops. But there was no such one-sided indignation as that which brought the roof down on the French-English-Israeli operation in Suez. The inclination today is to achieve the maximum effect with the minimum intervention, with the least possible bruising of good will in either India or Pakistan. Since both totally disregard the first admonitions of the Security Council, not to mention direct pleas from national leaders around the globe, U Thant rushed out to see what he could do. He was unsuccessful.

Finally, however, the U.N. did manage to succeed in its efforts to bring about an end to the fighting. The attrition of the battlefield, with its unsettling effect on the wobbly economies of both countries, the likelihood of Western (and Soviet) aid shipments being cut off, plus the flesh-creeping prospect that a small, convenient conflict might run totally out of control in Asian war and internal hysteria, created an atmosphere in which both sides welcomed a way to break off the fighting without losing face. Thus, the Secretary General and the U.N. should not be denied their share of credit. Saving the face of embarrassed and desperate governments is a most useful, legitimate act of pacification. But if that were all the U.N. were capable of doing, the peacemaking imperative of the charter would have shrunk to a casual and purely voluntary conciliation service.

One of the most painful parts of the Kashmir dilemma is that it is forcing the U.N. to recognize the possibility that this has already happened. For example, if India and Pakistan remained adamant in refusing to heed the Security Council's repeated calls for a cease-fire, or if the accepted cease-fire breaks down when it comes to discussing the hard issues of political settlement, or if a similar crisis occurs elsewhere, the Council would face a critical alternative: It could throw in its hand altogether and accept defeat, or it could try to take appropriate action to cope with a clear breach of the peace.

Under article 39 of the charter, the Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with articles 41 and 42, to maintain or restore international peace and security." Article 41 lists the range of economic and diplomatic sanctions up to complete isolation of the guilty parties, while article 42 gives the Council the right to use any and all military force to restore peace and security.

These articles are in chapter VII of the charter, headed "Action with respect to threats to the peace, breaches of the peace, and acts of aggression." Chapter VII has been invoked only once before—in Palestine in 1948—where its mention was enough to bring about a ceasefire. Chapter VII is the U.N.'s teeth—but, in fact, the teeth do not exist. The machinery for using the armed forces of the member states to impose the Council's will on sovereign states has remained a pious blueprint since 1945. The Military Staff Committee, charged with the strategic direction of these forces, lives only in limbo.

Military action by the United Nations appears to be out of the question, whatever India and Pakistan eventually do. Economic sanctions are most unlikely because, in the first place, the Soviet Union could be expected to veto them—even if other permanent members did not; and, in the second place, they would be difficult or impossible to enforce. To suggest only two contingencies of a great many—would the U.N. shoot down Chinese Communist planes flying equipment into Pakistan, or sink oil tankers from Indonesia and Iran, assuming that it could ever assemble the military means to do so?

China has committed itself completely to the support of Pakistan, to the point of threatening India with military attack as an obvious device to divert Indian forces. Even if Chinese attacks remain local, they would be acts of aggression in violation of the U.N. Charter. Whatever may lie at the end of the road of Sino-Soviet relations, it is hardly conceivable that the Soviet Union would, at this stage, condone Security Council action against Peiping. And if Moscow were to veto any such proposal, there is little prospect of the General Assembly recomending punitive measures under the Uniting For Peace Resolution. The member states have not forgotten that voting unenforceable sanctions against Mussolini for his invasion of Ethiopia in 1935 was a default which destroyed the credit of the old League of Nations once and for all.

The Council might request member states to take what diplomatic and economic action they can to bring India and Pakistan around to agreement. The United States and Britain have already suspended shipments of military equipment to both countries—a decision which is a function of traditional bilateral diplomacy quite independent of the U.N. Add a dash of Chinese Communist power politics, Sino-Soviet struggle, Vietnam and Afro-Asian sensitivity, shake violently and bring to the boil for the political stew now at the United Nations.

Technically, the Kashmir problem is not before the General Assembly and will not be as long as it remains in the Security Council. But the question of what the United Nations can do to keep peace, which monopolized the 19th Assembly, will figure most prominently in the 20th. The financial crisis, that froze the last session, has not been resolved but only sidestepped. It remains a constitutional crisis in financial terms. The United States, somewhat outmaneuvered last December, found itself unable to muster majority support in applying article 19 against the Soviet Union, France, and the other countries which had refused to pay their share of the U.N.'s peacekeeping costs in the Congo and the Middle East. Russia had threatened to boycott the Assembly if its vote were withdrawn, as article 19 provides, and the smaller countries quailed at the thought. The United States backed down, rationalizing that it should not cut off its nose to spite its face. Better to keep the Assembly operating normally and preserve it as a last resort in peacekeeping than to risk tearing the U.N. apart in protracted struggle over a legal principle which most of the members did not want to preserve.

On September 1, the 19th Assembly met to ratify a face-saving formula which would permit the 20th to convene normally. Article 19 would not be applied with regard to the Congo and the Middle East, and the serious financial difficulties of the U.N. stemming from nonpayment would be solved through voluntary contributions by member states. But contributions so far have brought in only a trickle. The U.N. has had to borrow money again this month to meet its payroll. On September 3, U Thant informed the members that he needed $100 million in cash to restore the organization to solvency—and this figure did not include $154 million outstanding in United Nations bonds.

The Kashmir crisis has given this bookkeeping headache urgent political relevancy. Who would pay for any sizable peacemaking or peacekeeping operation that the United Nations could mount in Asia? And that question illustrates only part of the U.N.'s trouble. The Soviet Union's refusal to pay was not—or not so much—to save some $62 million but to cut the United Nations capacity for action down to what the Security Council and its five permanent members will permit and to the strict wording of the U.N. Charter. Rigidly construed, there is no provision in the charter for projects like the Congo operation and the U.N. emergency force (UNEF) in the Middle East, just as there is no specific authorization for the General Assembly to move in and recommend peacekeeping action when the Security Council is deadlocked by the veto.

The entire matter of future peacekeeping operations is up for review in the 20th Assembly. So is the most important current undertaking—UNEF. That had been financed by assessment of the entire membership, but under the September 1 agreement there is no longer any practical obligation to pay. While UNEF's life is assured through December, the Assembly will have to carry on from there with some makeshift unless one important element in the stability of the Middle East is to vanish.

By comparison with these matters, the other business on the Assembly's 108-item agenda is dull, except for the perennial issue of Chinese representation. Most observers have registered a gradual increase in the pressure to seat Peiping in the U.N. U Thant has again publicly appealed for universality of membership. And Red China's massive intrusion into Asian and African affairs has made it so much an international factor that it might just as well be in. If that were the only consideration, Peiping might be seated this year—with even those who have no illusions about the radical, destructive role it would play willing to accept the inevitable and looking forward with professional interest to the consequences. But as things stand, Red China's minimum demand for entering the U.N. is the expulsion and extinction of Nationalist China—a price which the majority of the membership is unwilling to pay—and a price which Peiping's own perverse, bellicose actions, year after year, have made appear even higher.

The rest of the political agenda is of no great, practical consequence. Disarmament is up for discussion once again, as it has been in one form or another from the very beginning. The portents are no better than before, and probability points to its referral to a World Disarmament Conference which would be open to Peiping to attend.

Only in the field of outer space does there seem to be some prospect of constructive work. Increased space activity, adding more astronauts temporarily and permanently to the hundreds of items of space junk in long-term orbit, is thought to stimulate the self-interest of Moscow and Washington in binding agreements on assistance and return of astronauts in distress and the return of satellites. But even in this comparatively nonpolitical field the Soviet Government seems unable to make up its mind. Whether the internal problems that beset what might well be an unstable, interim regime, or the international headaches that flow for the Communist world from Vietnam and Kashmir are the explanation, Moscow does not seem ready to move very far in any direction.

The 20th Assembly will meet. It will debate. It will pass resolutions. In the field of economic development, where a good 80 percent of the U.N.'s work is done, there may be real progress in improving and coordinating aid machinery. But as things stand—and sadly enough—the Assembly will have a political effect on the most pressing current problems only if events take a turn which cannot now be foreseen.

CONNECTICUT ART EXHIBIT

Mr. RIBICOFF. Mr. President, Washingtonians are currently able to view some of the finest works of art owned by Connecticut residents.

The first exhibition of the season at the Washington Gallery of Modern Art, "20th Century Painting and Sculpture from Connecticut Collections," is an artistic event of national significance. The schools and influences that have shaped contemporary art are represented in the works by every major artist of this century. Picasso, Kandinsky, and Mondrian—Miro, Maillol, Klee, and Chagall are just a sampling of the artists whose works are included in this collection.

Mrs. Burton G. Tremaine, of Guilford, Conn., a member of the museum's advisory council, has explained that the purpose of this exhibit—and those to follow from other States—is to show the quality of art that is owned by industry and private collectors. A display of this kind suggests the importance and value of works of art for enlightening the public.

The present exhibition will remain in the Washington Gallery until October 24. It will then be shown at the Wadsworth Atheneum, in Hartford, through December 5. I want to congratulate the Atheneum's curator, Samuel J. Wagstaff, Jr., who assembled these art works in cooperation with the Gallery of Modern Art. Hundreds of people have already enjoyed this truly magnificent display of outstanding sculpture and paintings, and it is hoped that many more will take advantage of the opportunity to see a collection remarkable for quality, balance and breadth.

TRIBUTE TO RENO ODLIN, AS PRESIDENT OF THE AMERICAN BANKERS ASSOCIATION

Mr. ROBERTSON. Mr. President, it has been my happy privilege to know for some years two of America's outstanding bankers—Hon. Reno Odlin, of Tacoma, Wash., and Hon. Archie K. Davis, of Winston-Salem, N.C.

For the past year, Mr. Odlin has served with great distinction as president of the American Bankers Association, and this week Mr. Davis will be elected to succeed him. The American Banker, a daily newspaper that has the largest circulation of any trade journal in the United States, paid a high tribute to Mr. Odlin in its issue of October 4.

I ask unanimous consent that that editorial may be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A MAN TO MATCH THE EVENTS

Exceptional events have marked the progress of the American banking industry during the year of Reno Odlin's presidency of the American Bankers Association. As that year draws to a close this week, the industry can congratulate itself for having had as its leader during these crucial days a man to match the events.

For Mr. Odlin's remarkable personal qualities have been singularly suited for the challenges to banking leadership in the form in which they happened to develop.

He has been forthright when the industry needed straight talk from the top; candid in evaluating industry problems; vigorous in stating the case for banking in times of public concern; lively in enlisting widespread support on vital issues.

He took office at a time when a rash of bank failures was starting to worry the public as well as the industry. Without blinking at the harsh realities of the problem, Mr. Odlin moved promptly to put the whole into realistic perspective, calling it a matter for concern but not alarm; he focused attention on the size, strength, and enormous variety of vital services provided by the banking system of the United States. He spoke powerfully and often on this theme, with such success that even the flurry of headlines set off by congressional investigations into the failures could not offset the renewal of confidence in this key industry which his campaign had inspired.

PRESIDENT SPEAKS FROM HEART

Mr. DODD. Mr. President, any American hearing President Johnson speak at the ceremonies for the signing of the immigration bill felt the thrill of being a part of this great land.

He spoke from the heart when he said the bill "repairs a deep and painful flaw in the fabric of American justice."

As the President spoke, thousands upon thousands of viewers on television screens across the land saw the Statue of Liberty, and all that this great gift from France has represented to immigrants to this land.

The new bill, as President Johnson said, "will make us truer to ourselves as a country and as a people. It will strengthen us in a hundred unseen ways."

The bill, which the President signed on the historic setting of Liberty Island, says simply that those wishing to emigrate to America shall be admitted "on the basis of their skills and their close relationship to those already here."

This is a simple and a fair test.

The President himself said:

Those who can contribute most to this country—to its growth and strength and spirit will be the first admitted to our land.

We have grown strong in this country because of the diversity of the races. Out of many has come one—one great nation.

Outstanding American violinists, pianists, painters, writers, thinkers, and countless good citizens and workers were born in other lands, then came to live here.

We are all inheritors of the great traditions of many other lands.

In Vietnam, as President Johnson said, men whose names reflect various backgrounds are fighting as Americans to protect freedom.

If we do not ask these soldiers from what land they or their parents come, we can eliminate that question as a test for immigration.

The President has issued a clarion call for all freedom loving men to live and work together in peace, and in the pursuit of happiness.

The torch at Liberty Island in New York harbor never burned brighter.

THE CITIZEN AND LAW OBSERVANCE IN A DEMOCRACY

Mr. McINTYRE. Mr. President, it was my privilege to represent New Hampshire, one of the Thirteen Original States to sign the Constitution, in the wreath laying ceremonies at the Washington Monument, part of the Citizenship Day program and part of the 20th National Conference on Citizenship.

The keynote address at the 20th National Conference on Citizenship was given by Dr. Arthur P. Crabtree, past president of the Adult Association of the USA. This was an outstanding address and should be read by all Americans.

Mr. President, I ask unanimous consent to have Dr. Crabtree's speech printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CITIZEN AND LAW OBSERVANCE IN A DEMOCRACY

(By Arthur P. Crabtree)

This is the 20th anniversary of the National Citizenship Conference. On the 17th of May 1946, a group of patriotic Americans gathered in the city of Philadelphia to consider the means of preserving the values and the vigor of American citizenship during the years of peace that lay ahead. There, in the cradle of our constitutional government, they breathed an enduring purpose into the first of these citizenship conferences. Like the Christophers, they chose to light a candle rather than curse the darkness. And there was a gathering darkness. World War II had been concluded and, as so often happens following a victory in war, when "the tumult and shouting dies," the patriotic fervor engendered during the war had begun to wane. Today we are grateful that the light they kindled two decades ago became a torch of leadership, a beacon that has lighted the way through these ensuing years for all of us who would keep alive those civic values that constitute the lifeblood of this Republic.

Last week, in the preparation of this speech, I ran across an old program of that first gathering in Philadelphia. Its roster bore the names of many who have become identified with this conference through the years. Like Abou Ben Adhem, the name of Judge Carl Hyatt "led all the rest." The honorary chairman of that conference was the late Chief Justice of the U.S. Supreme Court, the Honorable Harlan F. Stone. Our own current president of the conference, Justice Tom Clark, was one of the distinguished speakers. Two of our old friends, Dick Kennan and Earle Hawkins, were shouldering their usual leadership responsibilities. They were as indispensable to that conference as they have been to all the others that have followed.

It was a fragrant retrospection to muse over the pages of that old program of 20 years ago. With nostalgic reverence I communed again with those men and women who launched this effort to keep alive in our hearts and minds a continuing sensitivity to the deeper significance of our Nation's purpose. If this conference were nothing more, it would find abundant reason for existence as a living memorial to their great sense of public service.

But this Citizenship Conference is, indeed, something more than a monument to those who gave it life. It is a symbol of hope for those of enduring faith in the American spirit. It is a reply to those who suggest, as one contemporary historian has phrased it, that America has become "fat and complacent." It is a revelation, even to us, that deep within the wellsprings of American conscience there still flow untapped tributaries of civic concern. Yes, more than anything else, as we come here, year after year, this conference represents, to me, a continuing reassurance that the great heart of the American people still beats in unison with the purpose of the Founding Fathers.

I do not say this to indulge in histrionic phraseology. I realize full well that only a small fraction of our Nation's citizenry has crossed the threshold of this conference. The overt efforts of these programs during these 20 years have touched the lives of only a small percentage of our nearly 200 million Americans. But the triumph of this undertaking does not lie on the quantitative measurement of numbers. It lies in the implication that the task of raising the level of American citizenship can, in fact, be done. It lies in the indication that, given more men in the mold of Tom Clark and Carl Hyatt and Dick Kennan and Earle Hawkins, what has been done here can, on a relative scale, be duplicated in every community throughout the land. This, in my opinion, is the greatest achievement of this undertaking.

The conference committee this year has chosen a theme that, against the background of the current national scene, is fraught with timely concern for all Americans: "The Citizen and Law Observance in a Democracy." There have been few, if any, moments in our history when the observance of the law has received the attention it now embraces in the public mind.

The topic, as worded, however, invites a measure of analysis, definition, and perhaps, the liberty of certain assumptions, if we are to avoid the pitfalls of semantic entanglement in its consideration.

If, then, you will forgive the influence of the schoolteacher in me, I should like to begin with a definition of the word "observance." Parenthetically, may I explain that I am doing this, not only to express myself with greater clarity from this platform but also to establish some guidelines for the benefit of the discussion groups in the conference.

There are several shadings to the meaning of the word "observance." Webster gives one definition as an "act or practice of observing a rule, law, or custom." This isn't sufficiently incisive for our purpose. So, let's take a look at the word "observe." Here we find the definition that brings us closer to what I think was in the minds of these who chose the topic; namely, "to conform one's action or practice to; to comply with." It seems reasonable to me that we are talking in this conference, about the citizen's compliance with the law, or, if you will, his obedience to the law.

Now, another nagging question presents itself: What kind of law do we have in mind? One of the central issues at the heart of our national turbulence is the question of States rights. Inescapably, the query comes: Do we mean compliance with State or Federal law, or both?

Again, we must not forget that law has had its impostors. Arrogance and vanity

have often posed as law. "I am the law" was the proud boast of Louis XIV. Prideful Americans might dismiss the vain-glorious Frenchman with the comment that it couldn't happen here were it not for the fact that some of us were around in the middle twenties when David C. Stephenson, the grand dragon of the Ku Klux Klan, made the obnoxious boast to the people of Indiana. A realistic appraisal of present-day America cannot preclude the possibility that some there are who might contend that this is the rightful law to be followed.

Finally, a second look at the words "in a democracy" seems requisite to an intelligent discussion of our conference theme. The despotic rule of the world's greatest dictators have reflected their own particular brand of law. The rantings and the records of Hitler and Mussolini are surfeited with reference to their laws and legal procedures. And the nations behind the Iron Curtain are called the people's democracies by their Marxian apologists.

Yes, there are many kinds of law and there are self-serving definitions of democracy. Consequently, I must indulge in one final assumption. It is that the conference committee intended that we should interpret the word "law" in its generic sense, with the same meaning that the framers of the Massachusetts constitution had in mind in 1780 when they said that "ours is a government of laws and not of men." In this context, then, we are considering the citizen's compliance with the rules of a free society that operates under the rule of law.

Now we come to the heart of our theme: the concept of the citizen and his relation to law under these conditions.

It was no accident that the framers of the Massachusetts constitution proudly proclaimed to the world that theirs was a government of laws and not of men. It is not the result of casual circumstance that the story of American democracy is the story of the supremacy of the law. Only the fact that you and I were born in an age which takes it for granted allows this salient thread of American history sometimes to go unnoticed. If it were as meaningful to us today as it was to the Founding Fathers we would have no problem of civic responsibility in American life and this conference would not be necessary.

Permit me, then, to review, for a moment, how we become a nation of laws. A brief sojourn among the pages of the past will serve to remind us, anew, of the long and tortuous trial that mankind has traversed in order that you and I might breathe the air of freedom.

This Nation was the first major example of a nation established under the law in the history of the world. Please note that I use the word "major." A few sporadic attempts at democratic self-government had been attempted here and there but it remained for the Founding Fathers of the American Nation to make the bold departure from the ancient past. Prior to this, the nations of the world had been ruled by men. And, in this context, the word "men" was often equated with tyranny, despotism, and slavery. A blood-soaked tradition called the divine right of kings was the rationale for rulership in most of the countries of the world and the rights of the human being were subject to the whim and caprice of the ruling monarch. Louis XIV was right when he said, "I am the law," and the cries of screaming victims on the way to the guillotine echoed the tragic accuracy of his words.

This, then, was the nature of men and government when Thomas Jefferson and his associates came upon the stage of history.

Two protesting voices had been raised in Europe prior to the time of Jefferson. In England, a philosopher by the name of John Locke had been championing the rights of the individual and Jean Jacques Rousseau, a Swiss-born philosopher and writer had been doing the same in France. Jefferson was influenced a great deal by these two men, particularly Locke, and the Declaration of Independence, which flowed from the pen of the great Virginian, contained much of the Lockean philosophy.

For this reason, then, the ringing declaration that "We hold these truths to be self-evident: That all men are created equal, that they are endowed by their Creator with certain unalienable rights" became the battle cry of the common man in his emancipation from the tyrannies of a world that had known only the rule of men as a form of government, a world in which despots and dictators had met every human aspiration of their subjects with brutal oppression.

Thus, it was to safeguard these newly expressed human rights that law was elevated to central supremacy in the new nation. The Founding Fathers had seen what could happen under the rule of men and they did not intend to allow the mistakes of history to be repeated. Indeed, they did not even trust themselves. Not only did they set up a government of law but they insisted that it be written law. The American Constitution, with the protection of the individual written into its Bill of Rights, owes its existence to the distrust that the Founding Fathers had, even of themselves and their posterity. Government in any form, they said, must be forever restrained from denying the individual his God-given rights.

This, then, is the story of how we got to be what we are: a nation of law. I have labored its recital somewhat because I am convinced that we must understand the lesson of history in order to appreciate the heritage we enjoy as Americans. To do this is to recognize more clearly the imperative need for its preservation.

Thus far, I have been discussing the founding of this Nation, with its giant step from the rule of men to the rule of law, in the phraseology of the lawyer, the educator and the political scientist. Let's get down to simple, layman's language. Stripped of excess verbiage, what is law?

Others may differ but I would define the law as a set of rules which freemen create to govern themselves. The essence of this definition, of course, is not mine. It represents a school of thought held by many distinguished jurists. Speaking at Arden House in 1958, Judge Learned Hand, one of the eminent jurists of New York State, related an interesting story involving the great Justice of the U.S. Supreme Court, Oliver Wendell Holmes. He told the story of an incident which occurred on a day some years before when he and Justice Holmes were here in Washington. After a short while together, Justice Holmes had to leave for the Supreme Court Building where the Court was to confer. As he bade Judge Hand goodbye and walked off, the latter called after him and said, "Goodbye, sir. Do justice." Judge Hand then related that the great jurist turned sharply and replied, "That is not my job. My job is to play the game according to the rules." We strive to equate justice with the law but here was, perhaps, the greatest Justice the Supreme Court of the United States has ever had, expressing the principle that "playing the game according to the rules" characterized the nature of his primary responsibility more than the doing of justice. Only a great legal mind would realize that, while we strive for justice, it may not always be achieved and that, in a society ruled by law, playing the game according to the rules is the paramount consideration.

Let's continue in this simple vein our discussion of what it really means, to you and me, to live in a nation ruled by law. Let me tell you a story that carries more evidence than all the legalistic volumes that have ever been compiled. It is a poignant story of the majestic power of the law, a tribute to the infinite wisdom of the Founding Fathers when they insulated the rights of the individual from the power of government in the Bill of Rights. This story concerns a fellow by the name of Clarence Earl Gideon. You never heard of Clarence Earl Gideon? Well, don't let it worry you for I hadn't either, prior to 1963. The important thing is that we won't forget him and what his accomplishment means to every citizen of this country.

Clarence Earl Gideon was a semi-illiterate convict who was tried for burglary in Panama City, Fla., on August 4, 1961. Unable to hire an attorney, he asked for a court-assigned lawyer to defend him in the lower court. He was refused. Prior to that time indigent defendants were assured of legal counsel only in Federal courts, not in State courts. Gideon was convicted and sentenced to a Florida State prison. Convinced that he was in prison because he had been denied the aid of defense counsel at his trial, he began the study of law in prison. Eventually, he mastered a sufficient knowledge of the law to draw up a petition to the Supreme Court of the United States. The petition was written in painstaking longhand and forwarded to the Court in Washington. In 1963 the Supreme Court ruled, in the case of *Gideon* v. *Wainright*, that persons accused of noncapital crimes in State courts are entitled to counsel. The ruling, in effect, held that poverty is no bar to the right of counsel under due process of law. Not only did Gideon secure his own freedom but the decision in his case effected the release of hundreds of other prisoners who had been convicted under similar circumstances.

Clarence Earl Gideon won his freedom because we live in a nation ruled by law. Here in this simple story, packed with the drama of a Hollywood movie and the significance of the Magna Carta, lies the eloquent testimonial to the majesty of the law under our system of government. When an obscure, educationally disadvantaged and penniless convict, armed only with the moral rightness of one of the rules of the game, can challenge the power of a State and win the battle, we are, indeed, a nation of laws.

No consideration of the theme of this Conference would be complete without some appraisal of the current national scene with respect to our observance of the law. In short, let's take a look at how we are doing as law-abiding citizens.

Unfortunately, the view isn't too good. I shall not bore you with crime statistics. Suffice it to say that, from J. Edgar Hoover on down to the policeman on the beat, the testimony is the same: Crime is on the increase. Only last week President Johnson challenged his new Commission on Law Enforcement to try to come up with some answers in combating the increase of crime across the country.

Unfortunately, the civil rights movement has generated a corollary of lawlessness in its wake. A great social revolution such as this could not avoid it. In the minds of some, this conflict arose from our failure to follow the law of the Constitution relating to the rights of the individual. In the minds of others, it has arisen because we seek to deny the States the right to follow their own laws. Granting the validity of the States rights doctrine to a certain point, we cannot avoid the inescapable fact that the Constitution of the United States has long been accepted as the supreme law of the land and must be obeyed. Every moral principle in the reservoir of human conscience and the great weight of legalistic opinion supports the thesis that no law in this country can deny to a man his God-given rights as a human being because of race, color or creed. But when victory comes to those who are now seeking equality before the law, as come it will, they must not forget that with

victory comes responsibility. I could not agree more with the President of the United States when he stated, a few days ago following the riot in Watts, California, that "A rioter with a Molotov cocktail in his hands is not fighting for civil rights any more than a Klansman with a sheet on his back and a mask on his face."

While we cannot condone, we can sometimes understand, the motivation which prompts the underprivileged in our society to break the law. It is doubly deplorable to discover, however, that lawlessness is not confined to the victims of deprivation. In 1960 Federal grand juries in the city of Philadelphia convicted 29 manufacturers of electrical equipment on a price-fixing conspiracy charge. Two weeks ago, in a civil suit arising from the case, General Electric Co. and the Westinghouse Corp. were found liable in a Federal court in New York City for damages amounting to more than $16 million. There is no excuse when the leadership of powerful and affluent corporations deliberately flaunt the law of the land.

In our assessment of the moral climate of our Nation it is natural that we look, first, at the index of outright crime, the measure of noncompliance with the written laws of the land. But sheer criminality, per se, is not the sole measure of a nation's morality. There is a twilight zone of responsibility that faces every citizen of a free society, just beyond the realm of the written law. It is the above-and-beyond aspect of citizenship and, in the final analysis, the vitality and survival of a free society depends upon the measure of acceptance which this area of responsibility meets in the daily lives of the Nation's people.

This thesis was once advanced by a great Englishman, Lord Moulton, who served for many years as Lord Justice of Appeal in Britain. Speaking before the Author's Club in London, in 1924, on an occasion when he was the honored guest, he responded by presenting the thought that "mere obedience to the law does not make a nation great." Between the domain of positive law and the domain of free choice, there lies, said Lord Moulton, a domain which is ruled neither by absolute freedom or positive law. He called it the "domain of obedience to the unenforceable."

"Obedience to the unenforceable." Here is a concept cast in a verbal mould of majestic implication. Again the words of Lord Moulton: "In this domain the obedience is the obedience of a man to that which he cannot be forced to obey. He is the enforcer of the law upon himself. The true test of self-government is the extent to which the individuals of a nation can be trusted to obey self-imposed law."

Well, how are we doing in the realm of the obedience to the unenforceable?

For the past 17 years I have lived in New York State and, for the past year, in New York City. It is my considered judgment that the most serious social disease that affects American life today, particularly in our great cities, is man's growing unconcern for man. Permit me to cite an example of public behavior that has disturbed me even more than the increase in the violation of positive law in this country. It lies in the realm of the unenforceable.

This story is the story of a brutal murder. It is the story of what 38 people who might have prevented it, failed to do. Kitty Genovese was a decent, pretty, young woman of 28 who lived in a so-called respectable community of New York City. One night about a year ago she was walking home. As she neared her apartment she was attacked by an assailant. She was stabbed repeatedly for over half an hour. During that bloody eternity she screamed and cried repeatedly for help. Then she was dead. In the subsequent investigation of the murder, the police talked with 38 men and women, most of them her neighbors, who actually witnessed the killing from their apartment windows. Not only did they refuse to help her, they did not even go to the trouble to pick up the telephone and call the police.

One by one, in the investigation, each mouthed the alibi of his self-excusing, guilt-ridden conscience. Most of them didn't want to get involved. They didn't want to be questioned about it or have to go to court. Eventually, the entire 38 went back to bed while the girl's dead body lay on the sidewalk outside their homes.

There was, of course, no law that required any one of these 38 Americans to go to the aid of Kitty Genovese. They were violating no criminal statute if they didn't. They faced no judgment of a court of law. But if the spirit of this way of life we call a democracy has penetrated "the better angels of their nature," they will face a judgment more severe than the penalties of positive law. Punishment for them, if it occurs at all, will come from the nagging remorse of an accusing conscience or the moral wrath of their fellow men.

But I submit the proposition that here in this domain beyond the realm of positive law, as Lord Moulton has suggested, lies the real testing ground of the democratic thesis. Too long we have defined democracy merely as a form of government, thereby fixing our attention on the mechanisms, structures, procedures, and details of its organization.

Democracy is, first of all, a moral system. The great historian, George Bancroft, called it practical Christianity. It is something to be lived. It involves a relationship with our fellow man. It answers Cain's question that has persisted down through the centuries, "Am I my brother's keeper?" with a resounding "Yes." We obey the unenforceable commandments of democracy every time we have the courage to combat prejudice, intolerance, and fear, every time we have the moral sensitivity to become aware of the other fellow's misery and suffering and do something about it. This is the spiritual basis of a free society. If we obeyed every written law in the land and failed in this, our grand adventure in self-government would end in failure.

Another important facet of the unenforceable lies in the realm of the ballot box. This is the preeminent right, and responsibility, that self-government presupposes. The struggle for its attainment has marked the history of the Anglo-Saxon race for 1,000 years. Yet, the record of its place in our scale of values reflects an image of disturbing indifference on the part of our people. For more than half a century, our citizenry has averaged about 60-percent participation on election day. George Bernard Shaw once wrote that democracy is a device that insures we shall be governed no better than we deserve. With 40 percent dropouts from the polling booths of the Nation, what quality of government do we deserve?

This conference theme has still another facet for our consideration. Somewhere within its context a discussion of the whole concept of civil disobedience and passive resistance to law seems well-nigh unavoidable. It is a matter which relates to the essence of law and law enforcement. This shade of nonconformity to the law has been championed by great and honorable men. A Gandhi, languishing in British prisons, a Henry Thoreau in Concord jail for refusal to pay his taxes, a Martin Luther King protesting the laws of States that deny the rights of men to the American Negro—all these come to mind when we think of our responsibility to the law. Sympathetic as we may be to the causes which inspire civil disobedience, the question of how far we can go and still preserve the dignity and respect for the law seems quite relevant to the discourse of this conference.

Finally, I cannot conclude these remarks without yielding to the temptation to relate our conference theme to the field in which I have spent most of a lifetime: the world of education. I happen to believe that our understanding and compliance with the law is in direct ratio to the effectiveness of our education. And I am not too elated with the job we have done. To me, it seems a strange dichotomy that the world's lowest record of citizen participation in the processes of democracy can exist in a society that boasts the world's finest system of free public education. I find it difficult to reconcile the pious exaltation of citizenship training by our educators in midst of a growing disrespect for law and order. More specifically, I have never been able to explain to my sense of logic the complete absence of any teaching of law to the youth of this Nation in our public schools when we live in a social order where "every man is presumed to know the law." Nor is this a mere academic bromide. It is a principle that is followed in our courts of law. We teach about everything else under the shining sun to our children except the one thing that the law requires him to know. I have always advocated, and I still believe, that the educational curriculum of the public schools of this Nation should contain a course in the understanding of the law for every American child.

One hundred and eighty-nine years ago there occurred on this virgin continent one of those great flashes of documentary lightning that was to illumine the future of all mankind. It was called the Declaration of Independence. It set forth the audacious doctrine that men have certain inalienable rights that flow from God. One hundred and seventy-eight years ago this month, the document designed to implement these rights was adopted in Philadelphia. It was called the Constitution of the United States. These two majestic declarations of human dignity established for us a nation of orderly law. They marked the great turning point in history and, with their adoption, the hulking shadow of manmade despotism and tyranny began to shrivel on the pages of history.

But mere adoption of noble sentiment is not enough. We face today a growing disrespect for law. Eruptions of disobedience to the law are becoming more frequent throughout our land. This is, perhaps, the greatest challenge that democracy faces in this hour.

As I have said to you many times, what we say here in this conference will be of little significance unless it results in a fighting resolve to transform our noble sentiments into daily action throughout the year.

What can we do about the problem of law observance? Oh, there is so much we can do. We can set an example of respect for the law by obeying it ourselves, not alone the written statutes but the self-imposed responsibilities of the unenforcible. We can remember the words of someone wiser than I who said that "the world has grown too small for anything but brotherhood." If the carping critics of the law impugn its imperfections, ask them what they would suggest as an alternative to the rule of law. If they insist that the law is for the rich, tell them the story of Clarence Earl Gideon. If they suggest that it has been discriminatory in the past, remind them that the discrimination was the fault of the men who administered it, not the law itself. Remind them, too, that discrimination against race and color are disappearing from the American scene and that it was the law which initiated this rennaissance of human rights. Yes, tell them, if they care to listen, that the supremacy of law in the affairs of men is the triumphant climax of man's eternal quest for human dignity and freedom. Recite the record of those dark and terrible moments of history when the common man

could cry, in tragic truth, "right forever on the scaffold, wrong forever on the throne," but that now, with the law as our arbiter of justice, we can believe, with reassuring hope, the last two lines of that couplet:

"Yet that scaffold sways the future, and behind the dim unknown
Standeth God within the shadows keeping watch above his own."

THE IMMIGRATION AND NATIONALITY ACT OF 1965

Mr. INOUYE. Mr. President, it is especially fitting to say a few words about one of this year's most significant legislative accomplishments, the reform of our immigration laws. We all have an interest in this subject if only because, in the phrase of President Kennedy, we are all, except for the Indians, a nation of immigrants or their descendants. But for 40 years, and despite the urging of four Presidents, our immigration laws contained the discriminatory national origins formula, emphasizing birthplace in choosing our immigrants rather than personal merit or family ties.

The results were grotesque. A much-needed scientific or medical research specialist would be kept out because he was born in a disfavored country, while an unskilled laborer from northern Europe would be welcomed. The laborer would also be favored ahead of the mother of an American citizen born in the wrong place, who might have to wait for years before her son could bring her to join him. Such a system, which presumes that some people are inferior to others solely because of their birthplace, was intolerable on principle alone.

Perhaps the single most discriminatory aspect of the law was the so-called Asian-Pacific triangle provision. This clause required persons of 50 percent or more Asian ancestry to be assigned to national quotas not by their own place of birth, but according to that of their Asian forebears.

There was the case of a young South American in the Republic of Colombia, who was eligible and fully qualified to come here. His wife was also a native and a citizen of Colombia. But she was the daughter of a Chinese father. As a result, this young woman had to be considered half-Chinese and thus admissible only under the quota for Chinese persons of 105. This meant that if her husband chose to come ahead to the United States, he would have to wait for his wife until the year 2048 if he did not become a citizen. If he did become a citizen, however, he and his wife could be reunited in a mere 5 years.

To end the injustice and the costs which the national origins system needlessly inflicted, President Johnson last January called on Congress, in a special message, to pass the administration's immigration reform bill and to do so promptly. The new law which he signed on October 3, at the Statue of Liberty, selects immigrants within an overall limit of 170,000 on the basis not of birthplace or ancestry but rather by a system of preferences based on family relationships to our people and special skills that will be of real benefit to our country.

The new law means fairer, better selection of immigrants within the limits we are willing to accept. The law does not open the floodgates to an excessive amount of immigration. Moreover, all the present safeguards against subversives, criminals, illiterates, potential public charges, and other undesirables are retained. The safeguards against immigrants who might cause unemployment are actually strengthened. The overall result is an immigration law that is far more just, humane, and beneficial to the Nation.

EXPLORATION ASSISTANCE

Mr. JACKSON. Mr. President, on September 14, 1965, President Johnson submitted to Congress the 14th semiannual report of the Office of Minerals Exploration of the Department of the Interior for the period ending June 30, 1965. The report is available to the public on request to the Department. It shows the achievements and program of the Office of Minerals Exploration for that period.

I ask unanimous consent that President Johnson's letter accompanying the report and an excerpt from the report explaining the program be printed in the RECORD.

The letter was addressed to the President of the Senate.

There being no objection, the President's letter was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

I transmit herewith the 14th semiannual report of the Office of Minerals Exploration, Geological Survey, from the Secretary of the Interior as prescribed by section 5 of the act of August 21, 1958, entitled "To provide a program for the discovery of the mineral reserves of the United States, its territories and possession by encouraging exploration for minerals, and for other purposes."

LYNDON B. JOHNSON.

THE WHITE HOUSE.

EXPLORATION ASSISTANCE PROGRAM

The Office of Minerals Exploration in the Geological Survey conducts a program to encourage exploration for domestic mineral reserves, excluding organic fuels, by providing financial assistance in exploration to private industry under Public Law 85-701, approved August 21, 1958 (72 Stat. 700; 30 U.S.C. 642). The Office of Minerals Exploration also administers contracts with royalty obligations remaining from a similar program conducted by the former Defense Minerals Exploration Administration under section 303(a) of the Defense Production Act of 1950, as amended. Effective July 1, 1965, the Office of Minerals Exploration was transferred to the Geological Survey (30 F.R. 2877, 30 F.R. 3461).

SIGNING OF THE IMMIGRATION ACT BY PRESIDENT JOHNSON

Mr. CHURCH. Mr. President, on October 3, President Johnson, standing before the Statue of Liberty in New York Harbor, signed into law a most important act of Congress to improve our immigration laws. This legislation, which he recommended to Congress in a special message earlier this year, has abolished the national origins quota system of immigration. As the President observed in his special message, this system reflected "neither good government nor good sense."

For a good many years, thousands upon thousands of people in excess of the numbers we can reasonably admit have desired to come to this country. As a result, the basic problem for our national immigration policy is to maintain a fair system of selection among the applicants for admission.

For over 40 years we have made our choice by means of the national origins system, under which quotas were assigned to each country on the basis of the national origins of the population of the United States in 1920.

The new law has abolished that system and the injustices it has produced. Now we have turned away from an irrational concern with the place of birth of an immigrant—or of his ancestors—and have committed ourselves to a meaningful concern with the contribution he can make or the need for reuniting him with his family.

There were many objections to the system we have discarded. First of all, it did not even do what it proposed. It assumed that each country would use its quota in full. But the countries with the largest quotas—England and Ireland included—fell 50,000 short of their total each year. Since the law did not allow transfers of unused quota numbers between nations, these 50,000 numbers were denied to countries with waiting lists. In short, the numbers were lost. The new law, by doing away with quotas and establishing a first-come, first-served arrangement, prevents this wastage.

I might add that the new law does not significantly increase the total immigration per year. It allows for an increase about equal to these 50,000 numbers unused under the quota system.

A second objection to our prior policy was that it failed to serve the national interest. No matter how skilled or badly needed a man might be, if he was born in the wrong country, he had to wait—perhaps beyond his life expectancy—while others less qualified than he could enter the United States at will. That situation has been corrected, and a man with qualifications or skills we need will be considered equally with others in his position.

A third aspect of the policy we have changed is perhaps the most compelling. That aspect was its frequent cruelty. One of the fundamental objectives of our society is unity and integrity of the family. Unfortunately, the old system often kept parent from child and brother from brother for years—and sometimes for decades. It separated families arbitrarily and without rational purpose.

Now we have insured that parent need not be kept apart from son or daughter and have given adequate recognition to family relationships generally. Best of all, we have ended the possibility that families may remain broken simply because of differing places of birth.

A fourth point to make is that we have removed from our statute books an affront to most of the nations of the world. No longer need we be defensive

about a scheme that blatantly proclaimed as a matter of national policy that some peoples are not as worthy of consideration for American citizenship as others. As all our Presidents beginning with President Truman have pointed out, the national origins law was a constant irritant to amicable relations around the globe.

Finally, the national origins system contradicted our fundamental national ideals and basic values. It denied recognition to the individual and treated him as one of a mass. It judged a man not on the basis of his worth or ability to contribute to our society, but on his place of birth—or, worse yet, in some cases, on the place of birth of his ancestors.

We have now rid ourselves of these distortions of our true principles and have returned to our early practice of viewing all men for admission to our land without regard to their origins, or the origins of their forebears. The act of Congress that the President signed before the "Grand Old Lady" on Liberty Island does the Nation proud.

COLLEGE ADMISSIONS

Mr. RIBICOFF. Mr. President, each spring thousands of high school seniors anxiously await admittance to the colleges and universities of their choice. Many are rewarded with success. Others meet disappointment. In fact, some 100,000 graduates who want to go on to college next year will find in April that they have not been accepted by an institution of higher learning.

In many cases the heartache and confusion that result could have been avoided by sensible advice and reasonable planning. A series of articles entitled "Getting Into College," by John C. Hoy, dean of admissions at Wesleyan University in my own great State of Connecticut, offers excellent counsel to prospective college students and their parents as well.

In these times, when a higher education is of the utmost importance and competition to get one becomes more intense each year, Dean Hoy's experience and concern with the problem of finding the right institution for the right student is of interest to us all.

Mr. President, I ask unanimous consent that this series of articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GETTING INTO COLLEGE—COLLEGES EYE THE ARTFUL APPLICANT

(By John C. Hoy)

Unlike baseball, it's the spring batting average that means everything when applying to college. Most college admissions offices tell candidates if they have been accepted about mid-April, 5 months before the freshman year begins.

And each year at that time about 100,000 high school graduates learn that they have not found their college. Then a mad scramble for an opening—oftentimes anywhere—is started.

This is the first of a series of articles written with hope that you—or your son or daughter—will not be one of those 100,000. The series is intended to offer advice to anyone who may be thinking of college someday. It should be of particular interest to parents and their children who are freshmen and sophomores in high school. For families with members in the junior or senior years of high school each article should be of vital concern.

In many cases the scramble for an opening could have been avoided; the candidate, by planning, should be capable of insuring a good batting average for himself.

Colleges usually publish a cutoff date for applications. New Year's Day is a popular deadline. The best practice is for the student to file applications well before the deadline. And the arrangement for an interview at the college as early as possible in the student's senior year, certainly prior to January 1, is wise.

It is important to file more than one application. I would recommend that candidates file four applications, each to a college that offers an interesting challenge to the student. The following table offers an idea of the way to go about selecting colleges to which applications should be sent.

First application: A long shot. Reaching for the moon. But worth a try.

Second application: This is a tough one. But there is a 50–50 chance.

Third application: Pretty sure of acceptance and it fills the bill.

Fourth application: A clear shot.

One may ask, why four applications? After all there is a nonrefundable applications fee, usually $10 and increasing shortly to $20 for many institutions.

There are good reasons. Let's discuss "reaching for the moon."

All colleges take gambles and long shots each year. Admissions officers pride themselves on their judgment. They feel instincts about certain candidates who don't on paper seem to have all the qualifications. And, if the admissions officers are doing a good job, their instinctive judgment can pay off for the candidate as well as the college.

Therefore, it is worthwhile for the student to do a little "reaching" too. Students shouldn't overextend themselves but neither should they hesitate to stretch up on their tiptoes when filing an application.

Since the odds are not with a long shot, the second and third choices have to be much more realistic.

Actually, although the student may classify the second choice as "tough," it should be within reach. It should be a choice that can be obtained, say, if the breaks are with him. In this instance, a bad break would be for the second school to receive an unusually high percentage of candidates, all having exceptional qualifications. This happens every year.

This is the reason for the third and fourth applications. The school the student is "pretty sure" of, the third application, may have an unusual year, too.

Thus, the investment of some extra time and dollars in filing four instead of one or two applications, is worthwhile insurance for the young individual who wants to go to the right college.

GETTING INTO COLLEGE—WILL 4-YEAR INVESTMENT PAY?

(By John C. Hoy)

If anyone in your family plans to go to college, you should all take an honest look at the size of the human investment ahead.

In all likelihood parents will be investing between $10,000 and $16,000 for tuition, room, board, books, travel, and incidental expenses during the 4-year period.

And since college-age men and women have reached the productive age, it is estimated that any one of them would be capable of earning somewhere between $12,000 and $20,000 had they not gone to college for 4 years.

These material statistics are called to a family's attention to point out that the decision before any college candidate is no small one, even by one of its relatively minor yardsticks, the dollar. A college education is without question the largest single investment most people ever make in themselves.

But there are other factors of even greater weight.

Four years carved out of one's youth is a significant period of time. How these 4 years are invested can substantially alter the individual's approach to all the challenges to be faced in the 5 or 6 decades of life after college; colleges have the peculiar power of shaping the aspirations of their graduates.

If this investment of dollars, earning potential, and 4 formative years is made unwisely, the price of the mistake can be the costliest parents or their offspring ever will have to face.

At the extreme—and too often the extreme is realized—the child may never have the opportunity to fulfill his potential. Thus this person's capacity for making a satisfactory way in the world may seriously be damaged. The price for this is often spelled out in dissatisfaction throughout life and a probable loss of hundreds of thousands of dollars in earning potential.

Unfortunately, there are more wrong than right decisions made about college. During the last half century more than 50 percent of students who entered college in this country became dropouts. Add to this staggering percentage the number of students who merely "got by" or who finished although they ended up in the wrong school or majoring in the wrong course. One begins to realize how much thought and effort is required to turn the odds in the favor of any student.

But the odds can be turned in one's favor providing the student is willing to give enough careful thought to the selection of a college and to the reasons for deciding to attend a particular school in the first place.

The student should never be allowed to back into the choice of a college. Instead, the choice must be made with eyes wide open. The candidate must be very much aware of all the alternatives. Young men and women must think and plot a campaign designed to familiarize themselves with the possibilities open to them in higher education. They must clarify their own philosophy of higher education and what they want to accomplish during these last years of formal preparation for life.

To plan wisely it must be recognized that men and women of 17 or 18 are essentially the persons they will become after youth has passed. Therefore, if they do the right job of assessing their potentials, their strengths and weaknesses, they will have made a good start toward the right college decision.

And it is extremely important for parents to realize that this is the time to allow the young adult to make his own decision and live with it.

Unless young adults can make this decision on their own, they are not ready for college.

This reality—that their child, ready to enter college, is already a young adult—is difficult for many parents to accept.

Once this self-appraisal has been made, the students themselves must decide which college can do the best job of recognizing their potentials and helping them refine these potentials. The process of a college education, after all, is usually more a refinement of potentials than a process of acquiring new ones.

This refinement process can take place in a wide variety of settings. Clearly no particular institution has a priority on this kind of offering.

GETTING INTO COLLEGE—TIMING—WHEN IS A YOUTH READY?

(By John C. Hoy)

If the average shoe size in the United States is 9, this does not mean that every person has a size 9 foot.

Neither does the fact that the average age of a college freshman is 17 or 18 mean that every youngster is ready for college immediately following high school.

Actually a good number of young people who take a job for a year or so after high school do better beginning college later than they would have otherwise.

These usually are young people who need further experience with the "real world" before they can gain a better sense of why they are planning a college education.

Colleges and universities are very much interested in students who have the kind of foresight such a move demonstrates.

There should be no embarrassment to a parent whose son or daughter takes a working intermission between high school and college. More and more colleges are encouraging their enrolled students to take a year off for just this purpose—often without regard to academic difficulty.

There are students who attend college because they have "nothing better to do." Not surprisingly, students of this sort often bog down in the "sophomore slump"—and drop out of college altogether.

From our experience we believe that many youngsters have the right instinct about whether they are ready for college. All too often it is the parents who force them into mistakes.

Parents, understandably, have a tendency to believe that their child will do well in college if only given the chance. This, in spite of a record of poor performance in high school.

But logic, no matter how one tries to stretch it, does not indicate that the student who did not like high school and did not do well there will enjoy college and get what he should out of it.

An unusually high percentage of parents who push this kind of a child often discover the term "late bloomer." They claim that their child, one who has "not achieved" in high school, is really a species of genius who has not yet shown his bud. Colleges are constantly dealing with young people. They are particularly well adept at recognizing the wide variety of "late bloomers" who apply for admission.

Putting pressure on underachievers to go to college is merely increasing the chance that these youths will drop out. The majority of college dropouts in the United States are youngsters who have been under this pressure.

Occasionally an applicant appears who does not present all the proper credentials, but clearly shows a particular dimension of independence or creativity which caused him to buck the system in high school. As a result this student did not gain the particular rewards—namely grades—given by the secondary school.

Such a student may, on the other hand, be a voracious reader. This student may possess a curiosity and diligence which leads into worlds of learning that actually may be unmeasurable by the standards of traditional achievement.

Parents would do well to allow their son's or daughter's guidance counselor and admissions officer to determine how truly unusual the candidate's case may be. When a parent says, "I have a truly unusual son, but * * *" the college admissions officer feels it's time to duck. This kind of information is best presented by the candidate personally. He will have ample opportunity to do so on the application form or during the interview.

In general, colleges are quite suspicious of the candidate or parent who comes into the admissions office and uses the term "late bloomer" as an excuse for a poor high school record.

Actually, students who truly belong in this category are much too interested and involved in lively concerns to describe themselves in such a fashion.

In short, one of the real tests of whether a young man or young lady is ready to enter college is his or her ability to make an objective appraisal of themselves.

GETTING INTO COLLEGE—STUDENT—NOT PARENT—IS CANDIDATE

(By John C. Hoy)

Applying to college is perhaps the first adult responsibility assumed by young people. It is certainly one of the most important tasks they will ever undertake.

I feel strongly that parents should recognize that the college application is the student's responsibility. Admissions officers far prefer to correspond directly with the students instead of their parents. Colleges admit students, not parents.

Too frequently, however, a father sends the initial letter on business stationery. It is almost as if he doubts his child's capacity to write a letter worthy of consideration. I recommend, instead, that routine correspondence from beginning to end should be between student and college.

A letter from parents is, of course, welcome when it describes a particular problem or some condition affecting their child's application. But generally I hold with the admissions officer's adage: "The thicker the folder, the thicker the kid."

Thus the overzealous parent can harm this offspring's chance of conducting an important "negotiation" and developing from that experience the qualities of independence that will contribute to eventual academic success. I am persuaded that the overly dependent youngster is far more likely to be a candidate for the 50-percent dropout group than the young individual with initiative.

This is not to say that high school students should willy-nilly go it alone in planning a college education. They can and should enlist all the help possible from their secondary school's guidance director or counselor.

The counselor has helped place hundreds of students in college. He truly qualifies as an expert in the entire college placement process. Parents can serve by subtly encouraging the student to make a sincere effort. But remember the line is thin between parental interest and parental pressure. Conflict with the parent is found to be at the root of the majority of academic and social difficulties suffered by most students.

Beyond being a source of information, the counselor also can assist the students invaluably by objectively appraising their qualifications for various colleges. Recommendations against trying one college or another should not be taken amiss. Parents too often misunderstand or feel offended when a counselor advises against a particular college.

The fact is, however, that the counselor's and student's interests are the same. The counselor wants to see students from his school enter colleges and universities where they will succeed.

Most counselors will suggest that students apply to three or four institutions. Most often the colleges recommended vary in terms of entrance requirements. It will be wise for students to apply to at least one institution where they can be relatively sure of admittance. It should, of course, be to a college well suited to the applicant's needs.

Failure to work out a careful program of college applications too often means failure in entering college. Those who have not chosen wisely in applying to colleges often find that in the warm days of spring, they are out in the cold. Then they desperately—and too often hopelessly—seek opportunities in institutions at which they would have easily qualified if they had only applied in time.

But regard for proper timing is not to be mistaken as advocacy of overly early college planning. As an admissions officer, I urge early planning; it pays off in most situations in life. But premature planning is of little advantage—and tends to be rather neurotic.

One college president cautions: "Some ruin high school worrying about getting into college." To be specific, the junior year in secondary school is soon enough for actual college planning—assuming, of course, that the student began a college preparatory course in his freshman year.

I am dead set against students seeking interviews in the freshman and sophomore years. This puts too much "college" pressure on people before it is sensible for them to worry. And their "worrying" is not practical for the colleges and universities, either. Before junior year the student just has not compiled the academic and personal evidence needed for an admissions officer to be able to take action.

"IN" SCHOOL OFTEN PROVES "FAR OUT"—GETTING INTO COLLEGE

(By John C. Hoy)

Americans receive a great deal of training in buying on the basis of name and size. Whatever its value in everyday life, this procedure just does not make sense in selecting a college.

There are more than 2,200 accredited, 4-year colleges and universities in this country. An unparalleled dimension of choice is open to prospective students and their parents.

Nevertheless, the thinking of far too many students and parents is obscured by the feeling that perhaps 50 of those 2,200 institutions are the "in" places to go.

At Wesleyan University we face this problem to some degree. My advice to students who seem to be applying because of Wesleyan's prestige is to think again and decide what they really seek is a college education.

Basking in supposed prestige is no substitute for an education. Furthermore, in entirely practical terms, many who first go to a college or university for superficial reasons eventually wake up and become very unhappy. Some are so disillusioned that they drop out.

The naivete of this prestige business can easily be demonstrated. Consider the case of current and recent presidents of three renowned universities, Brown, Duke, and Harvard. All three were formerly presidents of Lawrence University in Appleton, Wis. The energy and leadership that these distinguished men have so impressively displayed for their name institutions was earlier matched by their services at one small Wisconsin college.

In fact, an extraordinary number of distinguished university presidents, professors, and researchers have attended and taught in comparatively unknown institutions. A Knapp-Goodrich study, "The Origins of American Scientists," reveals that on a scale of the production of scientists, 40 of America's top 50 institutions are small liberal arts colleges. Many of these are of limited reputation. Most are located in the Middle and Far West. Only three large, well-known institutions—Johns Hopkins, Chicago, and Wisconsin—were listed at all among the top 50.

Similar studies of the collegiate background of business and industrial leaders indicate that the better known institutions have no corner on the market when it comes to producing unusually successful men and women.

Size is another factor that often distorts the thinking of prospective students as they consider the colleges and universities to which they will apply.

The current bias seems to be against "bigness." Needless to say, we of Wesleyan have a well-developed awareness of the advantages offered by a relatively small campus and a high ratio of faculty to students.

But no one of us would agree with the exaggerated fears that an education at a large institution reduces the students to being "just another number."

In fact, because of their size many larger institutions are able to offer a great deal more individualized attention to students. Personnel services at many State universities have well-rounded professional staffs working in vocational guidance and planning, job placement, psychological testing and counseling, psychiatric clinics, complete medical and health services, as well as academic counseling.

The problem facing prospective students, their secondary school advisers, and their parents is to choose the school for which the student is best suited. Any student with initiative to seek out the multiplicity of services offered at large universities can enjoy a very complete education at such an institution.

Dad's "alma mater" can be a real problem. How many dads who went to Siwash feel their sons ought to go there, too? In such instances, Junior is forced, unwittingly, to support dad's enthusiasm although he has severe reservations about practically all of his father's old college buddies.

All that can be said here is that alumni sons, above all others, should be critical of dad's college. They should be permitted to measure the place as objectively as possible. The parent truly interested in his son—rather than his own reincarnation—will encourage the young man to recognize that the education he is seeking is for himself.

Besides, after 25 years, Siwash really isn't the same old place anyway.

GETTING INTO COLLEGE—BEWARE SALES PITCH—SEEK FACTS

(By John C. Hoy)

Watch five television commercials extolling the merits of different razor blades or household detergents and decide which to buy. It's pretty hard. That is, if one wants to be certain of getting the best value for the dollar.

Unfortunately the average college catalog is of little more value in helping the college candidate make his choice.

College catalogs do differ from television commercials in some respects. Most of them are dreadfully dull and show an appalling lack of clarity.

It is no wonder young people feel confused and indifferent toward the process of selecting their school after exposure to a dozen college catalogs. Catalogs have become very standardized. They make it difficult for the candidates to tell the difference between the school that offers what they want and those they should avoid.

Still, the catalog does carry much essential information. There also usually is supplemental material which can be more helpful. If students are interested in a college they should get its alumni magazine, the college newspaper, other peripheral literature and political journals published by the student community.

Most admission offices will gladly honor requests for such information. By studying these college media, in addition to the catalog, a far greater insight into the college character can be attained.

Further, there are objective guides to American colleges. Excellent books to read are the "College Board Handbook" and "Manual of Freshman Class Profiles," both published by the College Entrance Examination Board, and "Cass and Birnbaum Comparative Guide to American Colleges," published by Harper and Row.

While these books are not always directly available to the student, the high school college counselor usually is willing to lend them and, if necessary, aid in their interpretation.

From these books the student can get an honest appraisal of what different colleges are, what they offer, their true aims and purposes, and their backgrounds.

In studying the college catalog the most valuable information is course content, the various academic programs, requirements for graduation, financial information, and the description of scholarships available.

Perhaps the biggest single mistake made by a candidate reading a college catalog is to fall into the trap of counting the number of Ph. D.'s on a school's faculty.

That an individual has a doctorate is certainly one measure of his academic preparation for teaching. But this does not mean it is possible to assess the academic power of an institution by a nose count of the men with doctorates teaching there.

The Ph. D. is no accurate indicator of whether a man is an eminently successful teacher; it means he is potentially a successful scholar.

If I were a young man seeking my college again, and I found one where several professors had written exciting books in the last year, this would interest me very much. If the school could list three or four recent titles, I'd be tempted to go there regardless of the Ph. D. percentage. One must dig below the surface to discover such things.

In other words, the advice is that it would be foolhardy to rely on the catalog alone. Photography can be a very deceptive art. So can words from an institution which may be "on the make." Candidates should do some real research if they want to see the true face of the college they are considering.

GETTING INTO COLLEGE—JUNIOR YEAR TIME FOR LEGWORK

(By John C. Hoy)

When he becomes a junior, the secondary school student must really face up to the question of college—where to go and how to get there.

An immediate responsibility can be quite a strain—college boards. I believe it is generally wise for the junior to take a set of scholastic aptitude and achievement test examinations offered by the College Entrance Examinations Board (Box. 592, Princeton, N.J.).

Taking the examination while a junior does not mean that students are irrevocably "stuck" with their scores. They will have another chance, if they want it, as a senior.

But the early testing does have value. For one thing students can gain invaluable experience with college board testing. Once acquainted with the form, many students significantly improve their scores. Another plus is the evidence the tests will produce for the secondary school guidance counselor. A student's counselor can, by reviewing test results, suggest within broad limits the kind of college that should be most suitable for the applicant.

Some students also may want to take the American college testing program (330 East Washington Avenue, Iowa City, Iowa). There are many colleges and universities which prefer scores from this battery of tests.

But while college board testing as a junior has real value, it also involves some danger.

Even confined to senior year, college boards are greatly overemphasized. Too many secondary school students are bedeviled by the prospect—and then the results—of college boards.

In fact, college boards results are not of life-or-death significance in deciding whether a student will be admitted to college. Every year some of the most selective institutions take students with quite low college boards. And some of the least selective turn down students with very high college boards. Clearly, admissions officers base their decisions on something besides these tests.

My philosophy on college boards is that students should be encouraged to take them and to do as well as they can. When scores are received, I urge students to accept them maturely and with commonsense. They must not be discouraged if the scores tend to be lower than hoped.

Another job for the juniors preparing for college, and one that is less nerve wracking, is to visit a number of institutions in which they are interested.

If students have the time and energy, it would be ideal for them to visit from 6 to 12 colleges during the spring and summer of their junior year.

Beginning college visits in the late spring is opportune because admission officers are relatively free after May 1. They have just finished putting together their freshman class for the coming fall and are ready to begin thinking of the year following.

Nevertheless, the junior visiting campus should not necessarily expect a full interview. What the prospective college freshman should concentrate on is getting a sense of the school's atmosphere and human dimension.

It will be particularly worthwhile to attend classes—both large lectures and small discussion sections. And the applicant should take a hard look at the life of the campus. At a large university this would include fraternities, dormitories, the international house, the student center, off-campus rooming houses, etc. Frequently, it is the atmosphere in these facilities that will decide a student for or against a particular college.

After the first round of visits, prospective students should narrow their sights on three or four schools that interest them most. A return visit to these campuses is then in order. This time the student should anticipate a more complete interview with the admissions officer, and while on the campus, even more intensively, try to sample the life of the student body. Arrangements can be made through the admissions office to spend time in classrooms, eat with students, and live in the dormitories.

That a college is not considered among the most selective does not mean that it is not excellent. There are a great many institutions overrated because of their high entrance selectivity.

Many schools which do not make it quite as difficult to enter are exceedingly fine places at which to study. These "sleepers" are often moving ahead fast and are thoroughly sound and exciting places of which to be a part. In fact, I think it may be more stimulating educationally to help build a "B plus" college than to attend one long rated "A."

FACING THE INEVITABLE INTERVIEW—GETTING INTO COLLEGE

(By John C. Hoy)

The admissions interview will be one of the most important factors in determining whether your son or daughter goes to a particular college.

It is important in two ways:

The interviewer, whose job is to make a personal evaluation of the candidate, obviously is in a key position to influence the committee's final decision.

The candidate, while in the admissions office, is in an excellent position to have any questions about the situation clarified.

What is the admissions officer looking for in the candidate?

After having met thousands of young people in similar situations, the admissions officer realizes that no two are truly alike. He wants to know what makes this candidate tick.

If the candidate tries to create the impression that he or she is an absolute model,

one who has done everything right, the admissions officer will think something is wrong. They have been around too long to expect or believe in this kind of performance. Besides, an admissions officer would consider such perfection indicative of a rather bland and uninteresting individual. One might wager that the admissions officer would conclude that his college is not good enough to contain such an individual.

The admissions officer is looking for candor. He will respect the applicant who knows his strengths and weaknesses and can discuss them objectively. This does not mean that candidates are expected to deprecate themselves. The young adult who overdoes this is often as uninteresting as the one who feigns perfection.

It is wise to remember that college admissions officers are trying to pick a "well-rounded" class, not a class full of "well-rounded" people.

The strengths, weaknesses, causes, concerns, bumps, and rough edges of the candidate all are of interest to a competent admissions officer. He is an imperfect human being, too.

The admissions man does not expect to do all the interviewing. Unless also put in the place of the interviewee by the applicant, he will feel that the meeting has been incomplete.

If, by the time the interview is arranged, the student is deeply engrossed in the process of picking a college, there will be many questions the student truly needs to ask.

The pitfall of merely asking questions to show off, however, should be avoided.

This means the student should have the good sense to be thoroughly familiar with the college before the interview.

In addition to the conventional material students have searched out about the institution, they should have talked with alumni and students in their home area in preparing for the interview.

The admissions office is there to help the candidate, but the "drop in" does not get the kind of attention reserved for the student who plans ahead. Make an appointment 10 days to 2 weeks in advance of the admissions interview.

And it never hurts to make the job of the admissions officer less difficult. Make certain he has received all the data required before the interview. Bring along, or send in advance, an unofficial transcript from high school so that time can be saved in reviewing the student's record.

If the parent accompanies the student, it is well to remember that the college is interested in the student, not dad or mom, for the freshman class. Don't, for anything, be the "old man" or "old lady" who sits in an interview and feels that he or she, not their child, is going to be graded on answers to questions.

(While there is no true substitute for visiting the campus, on occasion a candidate just cannot get there. In this case write and explain the situation to the admission office. Arrangements usually can be made to have a representative of the office or an alumnus interview the candidate in the home area.)

Time must be budgeted to allow 4 or 5 hours on the college campus. A half-hour interview and campus tour cannot provide all that must be understood in order to make the right decision.

Candidates should really try to plug themselves into the campus life during the visit. They should read the bulletin boards. Bulletin boards, often very directly, can tell them much about the political, social, religious, and literary life at the school.

Applicants can benefit by introducing themselves to students in the union, bookstore and campus walks. These random encounters often are more helpful than the official tour. But keep in mind that individual opinion may be colored at the moment by the loss of a steady girl or by a flunked examination.

Since at least half of a college education comes from outside of the classroom, the intellectual ferment revealed by the bulletin board and personal encounters is vitally important to the candidate. Finding criticism, debate and ferment during the visit is a healthy rather than negative sign. Trust evidence of a lively dialog on a wide variety of topics. This is what college is all about.

GETTING INTO COLLEGE—HOW TO PAY? CHECK SCHOLARSHIPS

(By John C. Hoy)

College is expensive. But one need not give up hope of a college education for lack of money.

Fortunately, where family resources do not measure up, scholarship assistance is available to the qualified student. But virtually all scholarships and other financial assistance are firmly anchored to the "need principle."

Parents of a child seeking a scholarship should file a confidential financial statement with the College Scholarship Service. The organization serves as clearinghouse for this sort of information for most American colleges and universities.

Thus, one application filed at the service's headquarters at Box 176, Princeton, N.J., will provide the personal financial information needed to back up a scholarship application for almost all institutions of higher learning in the country.

Applications are thoroughly processed by the service. Information received is computerized and "tested" on the basis of the service's long experience in appraising families in terms of the "need principle."

The resulting evaluation of financial need is forwarded to every institution in which the prospective student is interested. Each college admissions office has a financial aid specialist who will, if requested, review with parents the evaluation placed on their confidential financial statement.

The following table will provide a rule-of-thumb idea of how much parents are expected to contribute from their income toward a son's or daughter's education:

Normal expected yearly support for college expenses from family incomes of different levels

Family income	Number of dependent children				
	1	2	3	4	5
$4,000	$380	$270	$210	$170	$150
$6,000	760	570	450	390	330
$8,000	1,220	950	780	680	590
$10,000	1,770	1,420	1,200	1,050	950
$12,000	2,360	1,960	1,680	1,500	1,370
$14,000	3,030	2,560	2,230	2,020	1,870
$16,000	3,730	3,200	2,835	2,600	2,420

This means that a family with an income of $4,000 a year and one dependent child is only expected to pay $380 toward a year of that child's education. But the family whose income stands at $16,000 or higher is expected to contribute $3,730 a year.

Actually the computations of the College Scholarship Service are somewhat more complicated. Other family assets besides income are weighed. And consideration is given to such extenuating circumstances as other educational expenses, insurance and retirement needs, debts, unusual or continuing illness, and limitations upon the earning power of the parents. To repeat, a college education is expensive—scholarship help notwithstanding.

How much is the college tab? The following typical budgets for two different kinds of schools may help parents estimate costs more closely. Such information is always available in a college catalog.

Estimated annual expenses at an eastern college

Tuition	$1,700
Other fees	120
Room	400
Board	600
Books and supplies	100
Miscellaneous	320
Total	3,240

Expenses for a resident [1] at a State university

University fee	$150
Student union fee	10
Student government fee	10
Room	250–400
Meals	400–550
Books	100
Miscellaneous	250–400
Total	1,620

[1] Nonresidents will usually pay an additional $400 to $500 in tuition.

THE GROWING POWER STRUGGLE

Mr. JORDAN of Idaho. Mr. President, on September 1, 1965, my distinguished colleague, the senior Senator from Utah, spoke on "The Growing Power Struggle" before a meeting of the Washington Trade Association Executives. In his succinct and penetrating analysis of this struggle he states:

By means of the Constitution, our Founding Fathers sought to preserve that power in the people against the inevitable challenge of an age-old tradition of power polarized in the hand of one—or a few. After nearly 200 years, the point of power focus has been shifting always more rapidly away from the people toward the single executive.

He then proceeds to point out the reasons for this shift, the dangers of a power seeking executive, how far it has progressed in this country and what might be done to counteract it. I commend this speech to the attention of all my colleagues and ask unanimous consent to insert it in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE GROWING POWER STRUGGLE

(Speech by Senator WALLACE F. BENNETT, Sept. 1, 1965, before Washington Trade Association executives)

I approach this assignment today with an unusual background of experience. Once I was one of you—having been in 1937 president of a tiny trade association with a two-person staff, and 12 years later president of the giant National Association of Manufacturers. Both of these organizations were vitally affected by activities of Congress.

Now I am in Congress—helping to create the problems which justify your employment—and giving you material for your bulletins to your members. My political enemies insist that this pattern creates for me an inescapable conflict of interest. I like to feel rather that it gives me two points of view from which to view the elemental forces that are contesting for power—and this is desirable, for the same reasons that the old stereopticon gave spatial depth to a picture and the modern stereo gives tonal depth and reality to sound.

Today, rather than to discuss certain bills before Congress—and thus disappoint those

of my audience who may not be directly involved in the ones selected—I want to discuss the basic and growing power struggle in which we are all deeply involved, of which these bills are tools and ammunition.

Like other natural forces, power always tends to be polarized, and in government the two obvious and ultimate poles are the ultimate executive, whether king, dictator, or president—and the people. The flow of force toward these two poles, like the positive and negative currents of electricity, never ceases, and their struggle focuses the actual and practical balance of power somewhere between.

The real meaning of the American Revolution is that it was the climax of centuries of effort and sacrifice to break through the tyranny of self-perpetuating executive power, and repose the power in the people.

By means of the Constitution, our Founding Fathers sought to preserve that power in the people against the inevitable challenge of an age-old tradition of power polarized in the hands of one—or a few.

After nearly 200 years, the point of power focus has been shifting always more rapidly away from the people toward the single executive.

There are several reasons for this:

1. The executive is personal, identifiable, salable with our modern methods of mass exploitation, and capable of singleness of purpose. In addition, he has $100 billion to dole out almost at will. On the other hand, "the people" is an amorphous, inchoate mass, divided into antagonistic groups.

2. The very singleness of purpose of which the executive is capable—and the people as a mass concept are not—harnesses for the executive the driving force of ambition and tends to burden the people with apathy. Leaders are supposed to rise from the people and serve for a limited time. This is how they rise, but once they are on the way up, few, if any, are willing to sink back into the mass. Rather, they struggle to rise higher.

3. A society as complex as ours must always be ruled by representatives. Theoretically all elected officials represent the people who elected them, and specifically this is true of men who serve in legislative bodies, including the Congress.

But there is a growing permanent executive establishment, and men in it are appointed to represent and wield the executive power of the President. Not only are they not answerable to the people, but they build a mighty bulwark to protect the executive against the Congress and the people, even to the extent at times of ignoring or refusing to carry out the obvious will of Congress. For instance, base closings, merger of Reserves and National Guard, B–70 bomber, etc.

4. The flow of power from the people to the President is self-accelerating—as he uses that power to create more. It is also debilitating in its effects on the people.

James Madison, author of the Constitution, said, "We rest all our political experiments on the capacity of mankind for self-government." He might have added, "This rests on the moral and spiritual capacity of individuals for self-control."

Whether consciously or not (and certainly no ambitious politician will admit doing it consciously), the power-seeking executive, in order to be successful, must deliberately weaken that capacity for self-government and put in its place a feeling of helplessness and dependence sweetened with promises of a better life with little or no individual responsibility through Federal programs, and the greater distribution of Federal benefits and Federal money.

In other words, the spiritual power for sacrifice and service of the individual must be replaced by a clever appeal to mixed fear and selfishness, backed up by a promise of material benefits—or by force.

The antipoverty program represents the appealing face of the power drive. The repeal of 14(b) represents the other face, which displays the naked use of force.

In short, while the power in the people rests on the spiritual strength of the individual citizen, the power of the executive can only be exerted through carefully disguised materialism.

How far has this polarization of power in the Executive progressed? Further than you think, and in more areas, perhaps, than you have observed. The system of checks and balances conceived by the Founding Fathers has become largely impotent. The executive department has grown tremendously in size, and in its assertion of power. Today the executive department, not counting military in uniform, numbers 2,540,000 persons with an annual payroll of $17 billion. On the other hand, Congress—the intended focus of representation of the people—has lost most of its balancing force for several reasons. Among them are these:

1. Under the "strong President" concept, so popular with the liberals, Congress has lost its opportunity to initiate laws. Under the same concept, many of its Members now feel a greater allegiance to the Executive (for his political help and that of his labor allies) than to the State or district from which they are elected. Many Congressmen and Senators have become almost completely dependent for their campaign funds on national labor organizations. This dependence has been increased by the great weakening of the two-party system.

2. The State's governorships have also lost their usefulness as balancing power centers. The acceptance of Federal grants of funds, upon which they have become increasingly dependent, inevitably transfers more and more powers of decision to Washington, and makes our Governors little more like provincial satraps. Most recently, by the creation of a new Cabinet post of Urban Affairs, we have created a means by which the mayors of great cities can completely bypass the State governments. Moreover, under the cloak of civil rights, we have given Federal officials the power to move into all local units of government—down to the school boards—and exercise a veto over the decisions of local elected officials.

What does this increasing concentration of power in the Federal executive mean to you and those industries you represent? Certainly not greater freedom of economic or business decision or local economic autonomy. Actually, you not only are obvious targets, but literally sitting ducks, because you tend only to react when some new Federal proposal affects you directly. Like the American people, you have no single voice. You do not hang together—and face the risk of hanging separately. Do not breathe a sigh of relief if, when you read the CONGRESSIONAL RECORD, you find no new bill directly affecting you. Rather, remember the oft-quoted words of Donne:

"Never send to enquire for whom the bell tolls. It tolls for thee!"

What can you as trade association executives do about it here in Washington? Little—except try to put out fires. But unless the executives of your member companies do something in the elections back home to make sure their communities and their States send men to their State legislatures and to Congress who are both capable and free from domination by Federal executives or labor, power will continue to flow at increasing speed from the people to the Federal executive establishment, and for our children, the achievement of the American Revolution, an experiment based on the capacity of mankind for self-government, will again become only a dream—a wistful memory.

As George Burns says, "Do it!"

AMERICA BACKS PRESIDENT JOHNSON

Mr. BAYH. Mr. President, it is indeed rare when sage advice and sound reasoning on our foreign policy—or any aspect of it—can be offered in six short paragraphs.

Nonetheless, this was accomplished in a recent editorial by the Fort Wayne, Ind., Journal-Gazette. Under the headline, "America Backs President Johnson," the Journal-Gazette has summed up with clear perception what the majority of the people of this country have indicated again and again in polls and statements.

I ask unanimous consent that this example of clarity and logic be printed in the RECORD in my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Fort Wayne (Ind.) Journal-Gazette, Sept. 5, 1965]

AMERICA BACKS PRESIDENT JOHNSON

The President of the United States is charged by the Constitution with the conduct of foreign policy.

We can have only one President at a time and the President now is Lyndon B. Johnson.

It is not good to divide the country in time of war. It helps the enemy.

These statements are hard to dispute and not very many Americans are disputing them.

Most Americans realize that the war in Vietnam was not started by our country, but that we cannot afford to run out on our ally or upon our own interests in southeast Asia.

America wants peace in Vietnam, but the enemy does not—at least up to now.

REVISION OF RULES ON BANK MERGERS

Mr. ROBERTSON. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an editorial entitled "Mr. Katzenbach Clears the Air," published in the Wall Street Journal of October 5, 1965.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 5, 1965]

MR. KATZENBACH CLEARS THE AIR

One of the more adamant opponents of proposals to revise the rules on bank mergers has been Attorney General Katzenbach. Now, however, he appears to have retreated a bit.

The Attorney General, in a letter to Chairman PATMAN of the House Banking Committee, indicates the administration would be agreeable to legislation embodying a couple of principles which happen to be the prime aims of those who want to revise the merger rules. So Mr. Katzenbach's letter may help settle the matter.

For one thing, the Attorney General agrees that Federal policy toward mergers of banking institutions should be consistent. Though that's clearly a sensible rule for the Government in any area, consistency has been notably lacking in Washington's approach to banking mergers.

In a number of cases in recent years, bank mergers duly approved by a Federal banking agency have been challenged by the Justice Department as illegal. It's not that the Department and the agency were reading the law in different ways; they were simply reading different laws.

If the banking agencies and the Justice Department are all going to continue looking into banking mergers, as Mr. Katzen-

bach thinks they should, his suggestion is sound: They all should act on the same legal principle. Above all, he says in effect, the public interest is paramount.

That interest is recognized by the banking agencies which, under the Bank Merger Act of 1960, consider not only a merger's effect on competition but also whether it will benefit the community by improving service and promoting a sounder banking system. The Justice Department and the courts, on the other hand, may ponder only a merger's competitive impact.

Mr. Katzenbach proposes that his Department and the courts be required to take the banking agencies' broader view of all the elements involved in mergers. As he says, "all such factors should be taken into account in determining whether the merger * * * is in the public interest."

Those simple concepts—legal consistency and the public interest—have been largely obscured by the charges that the banks somehow are seeking special privilege. It's good to have the Attorney General clear the air.

THE LONG TIDAL RIVER

Mr. RIBICOFF. Mr. President, our Nation is today coming to grips with one of the most important problems facing us—the need to preserve our natural beauty, insure open space for recreation, and clean up our precious water resources.

In my own State of Connecticut, we are fortunate to have the magnificent Connecticut River—a river that still flows through wooded hills and quiet pastures—but a river that is sadly polluted and in the midst of a long decline.

I have proposed that the Connecticut River Valley be made into a national parkway and recreation area; and on September 13, 1965, Secretary Udall, Governor Dempsey, and Congressman ST. ONGE accompanied me on a trip up the Connecticut from Saybrook to Hartford. What we saw confirmed my belief that we must move quickly to preserve the heritage of the Connecticut River for future generations.

Mr. President, one of the best descriptions of the Connecticut River is contained in the narration of the film, "The Long Tidal River." The film was photographed and written by Ellsworth Grant, of West Hartford, and narrated by Katharine Hepburn, a Connecticut native and resident, a warm and wonderful actress, and one well qualified to tell of the history and the beauty of the Connecticut—as well as the shame of pollution and the real danger that we will lose our wonderful resource.

Secretary Udall, Governor Dempsey, Congressman ST. ONGE and I—along with the other members of the party that traveled the Connecticut River—viewed "The Long Tidal River" as guests of WTIC–TV in Hartford at the conclusion of our trip. I salute WTIC and all the talented people who made the film possible: Ellsworth Grant; Katherine Hepburn; WTIC–TV Production Manager Paul Albert, who edited the film; and Connecticut River Watershed Council, Inc., and the Children's Museum of Hartford, who are making this film available for public service showings.

Originally telecast by WTIC–TV on August 2, 1965, the film was shown again by popular demand on September 14. The response of the public has been overwhelming, and demonstrates again that an informed people will be deeply concerned with the preservation of their heritage. This is television at its best. Professional television producers could take a good lesson from this outstanding achievement.

I wish it were possible to show this film to the Senate—but I know that the narrative that accompanied the motion picture is illuminating in itself, and I therefore ask unanimous consent that the text of the narration be printed at this point in the RECORD.

There being no objection, the narration was ordered to be printed in the RECORD, as follows:

THE LONG TIDAL RIVER

KATHERINE HEPBURN: Every river has a life, a character, a voice of his own.

Since the dawn of history rivers and fertile river valleys have spawned and nurtured vigorous civilizations.

The Algonkin Indians named their river "Quo-neh-ta-cutt." Long Tidal River, it meant, because the ocean tide rose and fell as far as the Enfield Rapids, 60 miles from Long Island Sound.

To Adraien Block, its discoverer in 1614 when he sailed upstream in the *Restless*, it was the "fresh water" river. To Timothy Dwight, native historian and Yale president, the "beautiful river, whose waters are everywhere pure." The poet John Brainard sang its praises in romantic couplets: "Fair, noble glorious river: in thy wave the sunniest slopes and sweetest pastures lave."

Benjamin Trumbull observed: "As its banks are generally low, it forms and fertilizes a vast tract of the finest meadow."

Such is the Connecticut River—the State's largest—and the only body of water that runs the full depth of New England * * * 360 miles from source to mouth.

For three centuries the Connecticut has been vital to the growth of the State—the fertile soil along its banks brought Thomas Hoker, the liberty-loving preacher, and his small band of followers from Massachusetts across the wilderness to settle in 1639 the three river towns—Hartford, Wethersfield, and Windsor—formed the first self-government in this hemisphere, based upon Hooker's principle that "authority is laid in the free consent of the people."

Later, a royal charter was obtained from the King of England; and once, when the security of the colony was threatened, the charter was saved by hiding it in the great oak that stood near the river. The river was also the highway for trade with other colonies and with the West Indies until the advent of the railroad. It was the stimulus for a prosperous shipbuilding industry. And a main source of water—for drinking, for food, and for power. Once extolled as one of the three loveliest rivers in the world, along with the Hudson and the Rhine, in our time the Connecticut has become a river in decline—defiled by man's progress, encroached upon, polluted, and unloved. Yet it remains our greatest natural resource in the valley, with countless creeks and coves to intrigue the modern explorer. Uniquely, it is a river with no city at its mouth. The main reason is the Saybrook bar—sand and silt collected over the centuries by the conflux of the river current and the ocean tide. From earliest times this bar has been a hazard to navigation and the despair of Yankee traders. Here's Jeremiah Wadsworth, the best known of them. Just before the Revolution, in the first real move to improve river commerce, the assembly voted to raise money, by lottery, for marking the bar. There are still numerous shoals and sandbars along the river, the narrowest part being the 600-foot width below Middletown.

Because of its strategic location near the mouth, Old Saybrook played an important part in the colony's early history. A stalwart English soldier and engineer, Lion Gardiner, was sent over in the 1630's, at a salary of 100 pounds per annum, to build a fort at Saybrook Point. He was employed by a group of Puritan lords and gentlemen who planned on making Saybrook their refuge from royal persecution. During the siege by the hostile Pequot Indians, Gardiner's son was born, the first recorded birth of a white child in Connecticut. For his Puritan employers, who never left England, the little fort proved a river's end of unfilled dreams.

Because of the bend in the river and the prevailing wind, Wethersfield, in the 17th century, was the head of navigation, a port that shipped to the West Indies, Europe, and China. Until 1700, when a spring flood changed its course almost overnight, the river here formed a double oxbow with a 180° turn, the bugaboo of river captains trying to reach Hartford. To sail from Saybrook required 2 weeks, as long as the voyage from the West Indies. One of the warehouses built to hold cargoes that could not be unloaded at Hartford still stands. The streets of this charming town are lined with homes of 18th-century sea captains and merchants. After the Revolution acres of Wethersfield were covered with red onions. Out of this industry developed pioneer seedgrowers like Comstock, Ferre & Co., part of whose building was formerly a West Indian warehouse. From the steeple of the Congregational Church, with its Christopher Wren spire, John Adams, in 1774, paused to gaze over the river valley, which he called "the most grand and beautiful prospect in the world."

For over a hundred years the river towns, from Saybrook to Windsor, bustled with shipyards. Middletown was once the largest port. From these yards came the famous river sloops and schooners for the coastal trade, and the brigs that plied the West Indian routes, making the Yankee name synonymous with barter. The colonists exported mostly fish, lumber, dairy products, corn, and livestock; they brought home sugar, molasses, and "kill devil," otherwise known as rum.

Shipbuilding was once the leading industry of Essex, now the loveliest and safest harbor for pleasure boaters who voyage up the Connecticut. The first ship of the U.S. Navy, the 24-gun *Oliver Cromwell*, slid off the ways here at the start of the Revolution. In the War of 1812, the British boldly invaded the river, set fire to the town and burned 23 ships. The Dauntless Club was originally the home of the Hayden family, who built the *Oliver Cromwell*. Later, it became a seaman's tavern, in which American soldiers hid during the British attack. Now, all manner of sea-going craft, except warships and privateers, anchor in these quiet waters.

A once famous Connecticut industry—sandstone—now lies abandoned just east of the river at Portland. As early as 1650 Portland brownstone was quarried for building purposes, and 200 years later 900 men worked here. The brownstone houses in New York owe their faces to Portland, the material being shipped in sloops and schooners that were locally built as stone carriers. An outstanding example of Portland brownstone is the Civil War monument in Hartford.

Although small scows and flatboats could pole past the rapids and falls at Enfield, they were too much of an obstacle for profitable river traffic above Hartford. Here the river attains its greatest breadth—2,100 feet. The falls did provide cheap power for

the local textile and paper mills—like Dexter, one of our oldest industries.

Hartford's adventurous merchants formed the Connecticut River Co. to complete the river improvements—by constructing a canal and locks at Enfield, in order to permit vessels of 70 tons to circumvent the falls and continue upstream to Springfield and Holyoke. Finished in 1829 with the help of Irish immigrants, the canal is 5½ miles long and 70 feet wide, with four locks. The first river in this country to be so improved, yet the coming of the railroad and the opening of highways doomed the canal as a commercial venture. Still navigable and open to pleasure craft upon request, it is today owned by the Connecticut Light & Power Co.

For nearly 2 centuries there were at least 15 ferry crossings from Saybrook to the State line, the sole means of getting across the river. The Chester to Hadlyme ferry, *Selden III*, is one of two remaining. Originally known as *Warner's Ferry*, Warner presented it—then a sailboat—to his son as a wedding present, with the stipulation that if he earned more than $30 a year in tolls, the excess must be returned to his father. When a traveler wished to cross, he blew on a tin horn attached to a large maple tree near the landing. The ferry ran all year unless the ice became too thick. Today, it is a romantic way for tourists to approach Gillette's Castle, built in World War I by the Connecticut actor and writer, William Gillette, and now a State park.

The oldest ferry still in use in the United States, dating back more than three centuries, is the little tug and barge from Rocky Hill to South Glastonbury. Now operated by the State highway department, it chugs back and forth between April and December, charging 10 cents per passenger and 25 cents per car. An owner of a bygone ferry used to solicit riders with the jingle:

"For the usual fare of half a dime,
In thunder, or lightning, in storm or shine,
My boats will run on schedule time."

Today, these two ferries transport 70,000 passengers and cars every year.

In 1824, a new era of power began with the arrival of the steamboat. In its heyday as many as 2,500 vessels a year berthed at Hartford. Charles Dickens once took a river trip from Springfield to Hartford in a small steamboat, which he described as having "about half a pony power." Introduced to the city's leading ministers, lawyers, and merchants, Dickens wrote in his diary: "Too much of the old Puritan spirit exists in these parts to the present hour; but its influence has not tended * * * to make the people less hard in their bargains, or more equal in their dealings."

Most famous of the steamboats was the *City of Hartford*, a giant sidewheeler built in 1852—273 feet long with luxurious appointments, and in service 34 years. Near the Hartford docks the brash Sam Colt built his firearms factory, topped by the Islamic dome from a grateful Turkish sultan, to whom he sold his guns.

Another well-known landmark on the river is the recently restored Goodspeed Opera House at East Haddam, a popular summer resort in the 1870's. Merchant, banker, shipbuilder, hotelkeeper, William Goodspeed erected the hall across from his hotel to cater to the carriage trade arriving by steamer from New York.

The scene on the drop curtain, painted for the grand opening in 1877, depicts the famous sidewheeler *State of New York*, the last and most elegant of its kind. Ironically, she ran aground and sank 4 years later at almost the identical spot shown. On this occasion Goodspeed, a promoter at heart, offered a twin bill—"Uncle Tom's Cabin" in the opera house and a visit to the wrecked steamer.

His shipyard, the largest of any river town, was located just south of the opera house. Employing 400 men, during the Civil War it delivered to the Navy in only 90 days the steam gunboat *Kanawha*.

At the foot of State Street in Hartford, businessmen and their families used to board the steamboat, dine in style as she puffed downstream, and after a refreshing sleep arrive early the next morning in New York—all for $2.50 per person. But the railroad whistle had long since sounded the deathknell of the steamboat, and her last trip was made in 1931, bringing to a close three centuries of dependence upon the river as the main artery of trade and travel.

Today, there is nary a landing place for a single pleasure boat. A few old pilings and bulkheads, like ancient ruins, give mute testimony of what used to be, and the dikes shut out any river view. Behind them has risen a glorious new city skyline, and a maze of superhighways, but the river has been forgotten. On the east side the Hartford Yacht Club bravely faces the river, with no docks and few moorings. Past the Bulkeley Bridge there is no channel and scarcely enough water for a rowboat during the summer. The nearest that yachts can anchor is in Wethersfield Cove.

Worse, has been man's abuse of the river. It has earned the soiled reputation of being dirty, smelly, and unfit for man, fish, or bird. Being the downstream State, Connecticut inevitably receives the waste of its three neighboring States to the north. According to the State health commissioner, "the river hasn't been fit for swimming for 50 years." "Fair, noble, glorious river" has now became labeled "the world's most beautifully landscaped cesspool."

Our gravest natural problem, pollution, has reduced the available water supply and restricted recreational development. Almost too late, public agencies, prodded by private conservation groups like the Connecticut River Watershed Council, are taking corrective action that will require 10 years to complete and will cost millions of dollars. One important phase is the installation of adequate treatment plants. Like the new one serving Farmington, they must be designed to remove up to 90 percent of human waste before it reaches our streams.

Equally critical is the discharge of organic industrial wastes—now double the amount of human sewage. Other pollution hazards that must be controlled are synthetic chemicals and detergents, radioactive materials, dumps, heated water emptied by industry, pesticides, and even recreational activities.

Far more than most residents realize, the river is still vital to agriculture, industry, and power. For example, tobacco. Using river water to irrigate the narrow strip of unique sandy soil along its banks, Yankee farmers produce $30 million worth of the Indian weed annually. Tobacco has been raised in the Connecticut Valley on a commercial scale for 140 years. Shaped like an elephant's ear, green in the field but brown after harvest, growing 10 feet tall, most of it is used for binders and wrappers in cigars. Called Long Nines, they were first made in South Windsor.

Connecticut Shade tobacco is now generally accepted as the best cigar wrapper in the world. After many experiments growers in Poquonock discovered, at the turn of the century, that under the shade of cloth they could create the necessary tropical atmosphere found in the East Indies. Nine thousand acres are planted yearly under the white and yellow cheesecloth. Nearly 5,000 full-time workers are employed, as well as more than 16,000 summer helpers. In large barn or curing sheds begins the 8-week drying process.

Industry uses millions of gallons of river water daily for cooling and processing. United Aircraft's Willgoos Laboratory, the feldspar plant below Middletown, the Hartford Electric Light Co. power station nearby. This coal-fueled plant now generates six times more electricity than when it opened in 1953.

The need for power by Connecticut's people, who will soon number 3 million, is almost insatiable. In the next decade alone the demand will equal the total amount provided in the past 80 years. To satisfy this, several New England utilities have formed the Connecticut Yankee Atomic Power Co. At a cost of $100 million they are now building the State's first nuclear power facility at Haddam Neck. For cooling purposes 372,000 gallons of heated water will be discharged every minute into the river—a requirement that has caused conservationists to fear for the survival of the shad and other fish in water temperatures that may, during the summer, exceed 100° F.

Surprisingly, our river industry is still served by the New Haven Railroad. The Valley Line from Middletown to Essex operates twice weekly, and one clear fall day we bought a ticket at the Middletown depot, met the crew and climbed aboard. The little freight train weaved close to the river over a bed that has become so bumpy that the maximum speed limit has been reduced to 20 miles per hour. But from the diesel cab we saw a unique panorama. On through the straits the train rumbled along until it reached the white piles of feldspar. Then past the Helco power station, with its vast mound of coal brought in by 95-car trains. To Higganum where railroad ties are cut, and opposite Goodspeed's Landing to the East Haddam lumber and hardware store. Farther down, whistling by the private crossings, we glimpsed marinas with their canvas-covered hulls, drydocked for the winter. At Deep River the engine was reversed and all hands gathered in the dining car—a caboose—for a hot lunch. Then, the return journey home over the single track in the soft light of an autumn afternoon.

More essential to Connecticut River industry than the railroad is the river highway itself, and the tugboats, barges, and tankers that ply it daily the year around. Some 34,000 vessels annually bring 3 million tons of cargo upriver, an increase of 25 percent in the past decade. Fuel oil accounts for more than one-half of the products carried, followed by gas, coal, kerosene, jet fuel, and petroleum asphalt.

The U.S. Corps of Army Engineers is responsible for maintaining a 15-foot controlling depth from Saybrook to Hartford. Frequently the channel must be dredged of the silt that inexorably accumulates. Sometimes river silt is used for fill, as in the construction of this interstate highway near Middletown.

The Coast Guard sees that more than 100 navigation lights are kept in working order, including, since 1839, the sentinel guarding the mouth. In winter, it must also free the channel of ice, so that barges and tankers can get through with their precious cargoes of oil and coal for Connecticut homes. Several times icebreakers, like the *Mahoning*, must be dispatched from New York.

With the snow falling hard and storm signals flying from Eastport, Maine to New York City, we boarded the tug at East Haddam. Under the command of Captain Miller, *Mahoning* is 110 feet long. With her 8-foot stainless steel prop she can easily slice through 2 feet of ice. On this stormy morning ice 4 inches thick had formed in the river at various points, and we set a course upstream to clear a passage. She crunched along with an occasional shudder of her hull. Once or twice her 12-foot draft caused her to scrape bottom. Despite the weather we sighted several empty tankers on their return passage. The thickest ice is usually found between Goodspeed's Landing and Gildersleeve above the Middletown Bridge,

where the channel is especially narrow. In addition to keeping the channel open, *Mahoning* tries to prevent blocks of ice from building up at the sharp bends and to free vessels that become stuck.

A leading conservationist, William Whyte, says: "With the explosive growth in boating that is ahead, the river is going to become a great recreation highway." New roads and bridges are providing more access to the river. Already, our State has 100,000 pleasure craft. Boating is recognized as the No. 1 family sport. Along the river are 10 public launching sites, with more to come, 8 yacht clubs, 3 State parks, 25 marinas and shipyards, most of them below Middletown.

Army Engineers are embarking on a 2-year study of the need for dredging a small boat channel along the 32 miles from Hartford to Holyoke. At the same time they will make a 5-year probe of the entire Connecticut River Basin to determine its future potential for boating, fishing and even swimming. Someday it may be open to as many as 2 million summer vacationers.

Fishing the Connecticut and its tributaries for bass, perch, herring, shad, and other varieties, is happily on the increase, although no longer do salmon populate its depths. In colonial times they were so plentiful that bondservants could not be fed salmon more than thrice weekly; and shad, which sold for as little as a penny each, were good only for fertilizing the cornfields. Over 100,000 shad a year are now caught, a multimillion-dollar investment for commercial and sport fishermen.

There are encouraging new signs of the river being used for the sports and pleasures of yesteryear, Trinity College crews once again row and race between Bulkeley Bridge and the Canoe Club. Recalling steamboat days, the *Dolly Madison* cruises twice daily between Hartford and Middletown. The *Holly*, out of Essex, gives landlubbers, a look at the watery secrets of Selden's Creek and the bygone splendor of the Haddams, where river captains built their homes above the banks. And the River Ramble, started by the Watershed Council, is now in its sixth year.

Between the mouth and Essex the marshlands remain a naturalist's paradise, even though two-thirds of the area have disappeared before the onslaught of civilization. Here washed twice a day by salty tides, muskrats scamper through waist-high grasses and bulrushes. Wild ducks and a few heron and osprey are seasonal guests and sometimes hatch their young. At least 16 species of fish feed here, as well as wild swans.

For protection, the State has been acquiring key parcels of wetlands in the lower river. But man cannot cease his encroachment. The North Cove, for instance, is a shallow blind inlet almost surrounded by tidal marshes. With Federal funds, it has been dredged to provide an anchorage for 200 small boats.

An ancient writer held that the same man cannot step twice into the same river, because both change. So, too, have the Connecticut and man's use of it changed through 350 years. No longer is its water, in Timothy Dwight's phrase, "everywhere pure, potable, perfectly salubrious."

It has also been said that a river, like a woman, is all the things she has ever been. The Connecticut winds through land that is still two-thirds forested and one-quarter farmed. Despite abuse, despite neglect, its banks are relatively unspoiled. It is still a tremendous resource for power, industry, commerce, and recreation.

In our age beauty and progress often conflict. On the one hand, the desperate quest to conserve what little of nature remains unspoiled; on the other, the unquenchable demand to develop open areas. The challenge for Connecticut is to balance these needs, so as to preserve the "last beautiful river" for us who have despoiled it—for our children who must someday again drink from its life giving flow. Then we can say that ours is, in Biblical words, "a pure river of the water of life, clear as crystal."

SIGNING OF THE IMMIGRATION ACT BY PRESIDENT JOHNSON

Mr. PELL. Mr. President, under the upraised arm of the Statue of Liberty, President Johnson on Sunday, October 3, 1965, signed the Immigration Act and thereby reestablished the traditional American concept of justice in addition to serving our self-interest.

For four decades the standards of the national origins quota system have forced mothers to choose between their children and America, kept from this Nation the skills and talents we needed and set up the false criterion that men born in one place were somehow better than men born in another place.

Under the new immigration law there has been created a system of selecting immigrants based not on the accident of where they were born—or even where their forebears were born—but on the basis of reuniting families and on the basis of special talents and skills which the immigrant can contribute to our special needs.

The new law does not permit the immigration of those who would threaten the jobs or livelihood of Americans nor of those who would be likely prospects for the relief rolls. And the skills which would give them a preference must be in short supply, or of unusual benefit to this Nation.

The new law allows for the admission of up to 10,000 refugees a year from Communist or other forms of persecution and from natural disasters, continuing what has been the traditional humane policy of America to those afflicted.

In addition, the new law continues the safeguards we have used for many years to bar criminals, addicts, subversives, and other undesirables.

In its practical operation, the national origins quota system kept out of this country about 50,000 qualified immigrants a year who now would be permitted to enter the United States. That is, of course, an insignificant number for a country of our size and wealth. And it is virtually unnoticeable in comparison with our population growth of some 3 million each year.

Primarily, the act is designed not to generate increases but to wipe out injustices, of which there have been many.

Under the old law, some large-quota countries consistently failed to use all of their annual quota allotments, but at the same time the law would not permit these quota numbers to be used by countries which had waiting lists. Thus at least one-third of the total authorized quota numbers were wasted each year. Such was the result of an offensive theory that presumed that some people were inferior solely because of their birthplaces.

Consider an American with a mother in Greece. Under the old system, he would have had to wait at least 5 years—often longer—to obtain a visa which would permit her to join him here. Similarly the American citizen with a brother or sister or married child in Italy could not secure a visa without waiting for years.

Immigrants from favored countries, with no family ties and no particular skills to offer this country, could, in cruel contrast, enter without difficulty or delay.

The same American citizen whose mother would have to wait 5 years could bring in a domestic servant from the United Kingdom or Ireland in from 4 to 6 weeks. If he chose one from Sweden, Belgium, or Germany, the waiting peried was only a little longer—from 8 to 12 weeks.

This was the system endured by this Nation for four decades. It viewed men not as individuals but as part of a mass. The new law corrects that view.

The old system deprived this Nation of the persons whose skills would have been of inestimable value. Many cases existed like that of the American hospital which was urgently in need of the services of the young, brilliant surgeon engaged in important research in heart surgery in India. Despite his top preference, the tiny Indian quota of 100 was filled. It would have taken years before he could be admitted.

Finally, the national origins system created an image of hypocrisy easily exploited by those who would blacken our stated beliefs in democracy. For example, it required persons of Asian stock to be assigned to quota areas not by their place of birth but by their racial ancestry.

Thus a husband with a half-Chinese wife could come to this country but would have to leave her for 5 years until he could achieve citizenship.

These and other anomalies have been abolished. The new law sets up a simple standard. We will admit those who have relatives in this country or whose skills we need, and we will do so without regard to the country of their birth. We shall choose among these people on the basis of first come, first served.

Since we cannot admit all who want to come to our land, we must be true to our own ideals in deciding who may enter. The new law embodies those ideals. Fairness is the keynote. Discrimination is ended.

RECESS TO TOMORROW

Mr. LONG of Louisiana. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 54 minutes p.m.) the Senate took a recess, under the previous order, until tomorrow, Wednesday, October 6, 1965, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5 (legislative day of October 1), 1965:

OFFICE OF ECONOMIC OPPORTUNITY

Bernard L. Boutin, of New Hampshire, to be Deputy Director of the Office of Economic Opportunity.

U.S. MARSHAL

Joseph F. Novak, of Delaware, to be U.S. marshal for the district of Delaware for the

term of 4 years, vice Edward J. Hussey, deceased.

Emilio Naranjo, of New Mexico, to be U.S. marshal for the district of New Mexico for the term of 4 years, vice Dave Fresquez, retired.

George E. O'Brien, of California, to be U.S. marshal for the southern district of California for the term of 4 years. (Reappointment.)

Thomas W. Sorrell, of Vermont, to be U.S. marshal for the district of Vermont for the term of 4 years. (Reappointment.)

POSTMASTERS

The following named persons to be postmasters:

ARKANSAS

Vernon M. Livingston, Mansfield, Ark., in place of R. W. Barger, retired.

CALIFORNIA

Andrew Chemycz, Crockett, Calif., in place of L. T. Gray, retired.

Leon Kulekjian, Parlier, Calif., in place of J. E. Alfors, retired.

Raymond A. Brandt, Santa Rosa, Calif., in place of H. M. Schulze, retired.

COLORADO

Rallin R. Gibson, Collbran, Colo., in place of E. N. Adams, retired.

CONNECTICUT

Francis I. Welles, Washington Depot, Conn., in place of L. P. Gage, resigned.

Adolph J. Wojick, Willimantic, Conn., in place of J. J. Lee, retired.

GEORGIA

Charles C. Poindexter, Jr., Ellijay, Ga., in place of R. C. Stembridge, retired.

ILLINOIS

Matthew J. Viscum, Lockport, Ill., in place of J. S. West, retired.

Norman A. Rutter, Saint Libory, Ill., in place of C. S. Rutter, retired.

INDIANA

J. Maxwell Clouse, Nappanee, Ind., in place of L. M. Roose, retired.

Lloyd G. Schroeder, Wheeler, Ind., in place of F. A. Smith, retired.

KANSAS

Wayne A. Wray, Barnes, Kans., in place of J. T. Poland, retired.

KENTUCKY

Maxine D. Remley, Silver Grove, Ky., in place of E. G. Abbott, retired.

LOUISIANA

Marilyn B. Coco, Hamburg, La., in place of M. C. Beridon, retired.

MAINE

Orville B. Denison, Jr., Cornish, Maine, in place of G. B. Haley, retired.

MARYLAND

Irvington R. Davidson, California, Md., in place of R. K. Barefoot, deceased.

Thelma Wilburn, Gambrills, Md., in place of C. L. Miller, retired.

MASSACHUSETTS

Joseph L. Lemieux, North Brookfield, Mass., in place of J. H. Short, retired.

MICHIGAN

Paul H. Mominee, Dundee, Mich., in place of E. M. Potter, retired.

MISSOURI

Lawrence P. Cook, California, Mo., in place of A. P. Carr, retired.

Donald H. McConnell, Greenfield, Mo., in place of Hazel Ryals, retired.

MONTANA

Wallace W. Paterson, Livingston, Mont., in place of F. I. Adams, retired.

Roy C. Hogenson, Wilsall, Mont., in place of G. H. Gregg, resigned.

NEVADA

Catherine C. McKenna, Hawthorne, Nev., in place of W. L. Neal, retired.

NEW HAMPSHIRE

Parker A. Rolston, Greenland, N.H., in place of R. A. Rolston, removed.

NEW JERSEY

Alice E. Taylor, Malaga, N.J., in place of P. S. Richman, retired.

NEW MEXICO

Elena M. Sosa, Sunland Park, N. Mex. Office established November 1, 1960.

Hazel L. Engram, Texico, N. Mex., in place of L. O. Brown, deceased.

NORTH CAROLINA

William P. Jobe, Forest City, N.C., in place of R. E. Hollifield, retired.

George E. Harvey, Littleton, N.C., in place of R. B. Petterson, retired.

OHIO

Jean C. Ebinger, North Fairfield, Ohio, in place of M. R. Maerkisch, retired.

OKLAHOMA

Oscar C. Baker, Hominy, Okla., in place of V. L. Moreland, retired.

Charles G. LaReau, Wanette, Okla., in place of H. L. Neal, retired.

PENNSYLVANIA

Kenneth W. Nyswaner, Clarksville, Pa., in place of J. C. Yoders, retired.

Ray F. Kuhns, East Greenville, Pa., in place of W. G. Dimmig, retired.

Michael A. Hrehocik, Glassport, Pa., in place of W. J. Hlavats, retired.

Lyman A. Stambaugh, York, Pa., in place of E. S. Glatfelter, retired.

TEXAS

Ferman C. Martinez, Port Arthur, Tex., in place of H. C. Dubose, deceased.

WASHINGTON

Harvey G. Iltz, Odessa, Wash., in place of H. F. Ottestad, retired.

John H. D. Smith, Orondo, Wash., in place of R. T. Gaston, retired.

WISCONSIN

Harold A. Kuehl, Reeseville, Wis., in place of Merle Cain, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5 (legislative day of October 1), 1965:

DEPARTMENT OF JUSTICE

B. Andrew Potter, of Oklahoma, to be U.S. attorney for the western district of Oklahoma for the term of 4 years. (He is now serving in this office under an appointment which expired May 15, 1965.)

Theodore L. Richling, of Nebraska, to be U.S. attorney for the district of Nebraska for the term of 4 years.

Bernard J. Brown, of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania for the term of 4 years.

Dale C. Stone, of Indiana, to be U.S. marshal for the southern district of Indiana for the term of 4 years.

Rex B. Hawks, of Oklahoma, to be U.S. marshal for the western district of Oklahoma for the term of 4 years.

IN THE DIPLOMATIC AND FOREIGN SERVICE

The nominations beginning Verne B. Lewis, Jr., to be a Foreign Service officer of class 1, consul general, and a secretary in the diplomatic service of the United States of America, and ending Robert C. Yore, to be a consul of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 24, 1965.

EXTENSIONS OF REMARKS

The Sisk Bill, Vigorously Implemented, Can Make Home Rule Possible

EXTENSION OF REMARKS
OF
HON. HENRY S. REUSS
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 5, 1965

Mr. REUSS. Mr. Speaker, forces favoring home rule for the District of Columbia, after last week's House floor action, are naturally less than happy. But I believe that the Sisk bill, passed by the House by a large margin, offers a real opportunity of achieving home rule in this 89th Congress. I include my letter to District Commissioner Walter N. Tobriner, in which I set forth a proposed Sisk bill home rule timetable, which I believe possible to achieve:

OCTOBER 4, 1965.

Commissioner WALTER N. TOBRINER,
District Building, Pennsylvania Avenue and 14th Street, Washington, D.C.

DEAR MR. TOBRINER: As one who has long worked for home rule for the District of Columbia, I share the disappointment of many residents that the House of Representatives last week rejected the so-called Multer compromise home rule bill and instead substituted the Sisk bill. After the remarkable performance whereby 218 Members signed a home rule discharge petition, it was a setback to have the House work its will by substituting the Sisk bill, even though the Sisk bill is the first home rule bill to pass the House within historic memory.

I write because I believe that action on the Sisk bill is vitally necessary in these closing days of the first session of the 89th Congress, and that if such action is not taken we shall have lost our best opportunity for home rule for many years to come. This Congress, I believe, contains majorities in both Houses favorable to some sort of home rule. Future Congresses may not. If the Sisk bill becomes law, and its procedures are speedily carried through, I believe that both House and Senate could have before them by next June—the last possible date before final adjournment—a home rule proposition which, when subjected to a square yea-and-nea vote, I believe stands a good chance of adoption.

Accordingly, I would hope that you and the other two District Commissioners could shortly publicly support the passage of the House-approved Sisk bill, as is, by the Senate, so that it may go directly to the President for signature.

While there may be some temptation to improve the Sisk bill in the Senate, I do not believe that any Senate improvements would be very consequential. On the other hand, any change in the Sisk bill would re-